

**GOALS AND PRIORITIES OF THE MEMBER TRIBES
OF THE MIDWEST ALLIANCE OF SOVEREIGN
TRIBES [MAST]**

HEARING
BEFORE THE
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED SEVENTH CONGRESS
FIRST SESSION
ON
**TO RECEIVE THE VIEWS OF THE MIDWEST ALLIANCE OF SOVEREIGN
TRIBES**

**JUNE 19, 2001
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GOALS AND PRIORITIES OF THE MEMBER TRIBES OF THE MIDWEST ALLIANCE OF SOVEREIGN TRIBES [MAST]

TUESDAY, JUNE 19, 2001

**U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
*Washington, DC.***

The committee met, pursuant to notice, at 10:05 a.m. in Room 485 Senate Russell Building, Hon. Ben Nighthorse Campbell presiding.

Present: Senators Inouye and Campbell.

STATEMENT OF HON. BEN NIGHTHORSE CAMPBELL, U.S. SENATOR FROM COLORADO, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

Senator CAMPBELL. The committee will be in session.

Senator Inouye called, he is stuck in traffic. He will be along momentarily. So, we are going to go ahead and start until he gets here. Then we will take a break when he gets here.

I might also mention, we would like to invite all of our witnesses today to join us at 2 p.m. in this room for a discussion on a legislative approach to taking land into trust, which has become a major point of discussion in the last couple of years.

So, if you are free at 2 p.m., if you would like to drop by here, we would like to invite you to be here.

Before we start with the witnesses, though, I would like to maybe just make a very short comment and welcome you here this morning and all of our guests.

Today the committee continues its series of hearings to listen to the concerns and priorities of tribal governments on a regional basis.

This morning we will hear from the distinguished leaders of the Midwest Alliance of Sovereign Tribes, comprised of Indian tribes from Minnesota, Michigan, and Wisconsin.

Last week, the Senate passed historic education reforms that included legislation that I and Senator Inouye introduced in January. We have much left to do in this session, such as improving the delivery of health care, improving housing building stock, and foremost to me, building strong tribal economies, which involves job opportunities on Indian reservations.

We will now move forward with the first panel.

The first panel will be Robert Chicks, chairman of the Stockbridge-Munsee Band of Mohicans; Melanie Benjamin, chief executive officer, Mille Lacs Band of Ojibwe; Eli Hunt, chairman of the Leech Lake Band of Ojibwe; Doyle Turner, chairman, White Earth Tribal Council, White Earth, MN.

We will start in that order. If you would like to abbreviate, your complete written testimony will be included in the record, so you may wish to deviate from that. We have quite a number of witnesses on three panels, a lot of witnesses today. So, if you could summarize and leave time for other witnesses, we would appreciate it.

STATEMENT OF ROBERT CHICKS, CHAIRMAN, STOCKBRIDGE-MUNSEE BAND OF MOHICANS, BOWLER, WI

Mr. CHICKS. Thank you. I appreciate the opportunity for us to be here this morning. My name is Robert Chicks and I am the president of the Stockbridge-Munsee Band of Mohican Indians in Wisconsin. I am also cochairman of the National Tribal Leaders Task Force on Land Recovery and I am secretary for the Midwest Alliance of Sovereign Tribes.

I know that you have my complete statement in front of you. I don't purport to read through it, but I will cover some points that I think are important.

I am here today to provide testimony to you on an issue that is critical to my tribe, to the tribes in the Midwest, and quite frankly, I believe, to all of Indian country as well. That is the issue of taking land into trust.

I want to provide a brief introduction and then I really want to stress four points: A brief history of taking land into trust, and why the fulfillment of the Indian Reorganization Act must continue, and why the proposed revised administrative regulations should be permitted to go into effect. Finally, I would like to cover very briefly the impact of Federal policy in the loss of the land as it pertains to the Stockbridge-Munsee Tribe.

I know that you are aware that on April 12, 1999, the Bureau of Indian Affairs [BIA] embarked on a process to revise the regulations governing land into trust. That process became rather lengthy and it continues today.

The final rules describing the revised regulations was not published until January 16 of this year. The Bush administration delayed the effective date of the regulations to April 16 and in fact, on April 16, delayed the date again to this August and sought comments on the final rule, whether it should be amended in whole or in part or withdrawn in whole or in part. Those comments were due, as you know, last Friday, June 15.

Although many tribes, including the Stockbridge-Munsee Tribe, criticized the proposed regulations when they were first issued, the tribes believe now that the process of revising regulations has resulted in a final rule that, while less than ideal essentially preserves the intent of the Indian Reorganization Act.

The National Congress of American Indians, as well as the Midwest Alliance of Sovereign Tribes, have stated their support for the proposed regulations to be permitted to go into effect.

As you know, in the late 19th century, the U.S. Government made a policy decision that sought to end the reservation system of communally held lands. The hope of the policymakers at that time was that Indians would assimilate themselves into American society.

The Allotment Era was initiated by the passage of the Dawes Act in 1887 and continued until that policy was ended in 1934. During those 47 years, the Federal Government took away more than 90 million acres of tribal lands that were previously guaranteed to us by treaties and Federal law. This was over two-thirds of our tribal land base and over 80 percent of the value as the best and most productive lands were the first to be taken from us.

The remaining tribal lands, if any were left, were difficulties-continuous, fractionated, and difficult to use for any economically productive purposes. The effects of the Allotment Era were devastating to our tribal communities economically and socially. Those effects continue to this day.

The Allotment Era was only one such period. Similarly, unjustified tribal land grabs occurred regionally throughout the 1800's and into the termination period of the 1950's and 1960's. Every tribe has a different history, but the theme is the same: The Federal Government came and took the lion's share of our precious remaining tribal land away, without justification.

In 1934, Congress reversed the Allotment Era philosophy by passing the Indian Reorganization Act. The IRA ended allotment and provided that any existing land, existing trust parcels would remain in trust, providing the statutory basis for the United States to take land into trust on behalf of tribes and individual Indians.

The IRA is comprehensive legislation intended to rebuild our governments, our economies and our land bases. It is still important for us to take land into trust today. Assuming all land is still going out of trust in Indian country every year, in some years the amount of land that goes out of trust exceeds the amount of land that goes into trust.

Land being placed in trust is a critical part of addressing our need to build self-sustaining communities and help tribes regain land and improve their social, welfare and economic opportunities.

The historical symmetry is startling. In the late 18th and early 19th centuries greed for land and resources fueled the rapid loss of tribal lands without regard to any moral or equitable considerations.

Today, tribes must often re-acquire land with out own funds. If we are lucky enough to do so, the land in trust process can be very time-consuming and expensive itself.

The continued fulfillment of the goals of the Indian Reorganization Act is vital to the preservation of tribal life and continuation of our tribal nations.

The proposed land in trust regulations now pending should be permitted to go into effect. As I discussed earlier, the final rule scheduled to go into effect this August 13 addresses many of the concerns that various parties have had in the past with the Federal process of placing land into trust for our Indian tribes.

No. 1, the proposed regulations strike a balance between the interests of tribes and local governments on preserving the land-to-trust process.

No. 2, the proposed regulations place higher scrutiny on off-reservation acquisitions;

No. 3, the proposed regulations provide a needed and valuable tool for landless tribes to begin to acquire the trust land;

No. 4, the proposed regulations treat land applications for parcels contiguous to existing reservations as off-reservation. The letter and spirit of the Indian Reorganization Act creates a process between the Federal Government and the tribes.

Although the statute suggests that local governments should not have a role in that process, are the proposed regulations rigorous enough to ensure that local governments will have significant opportunities to have their interests weighed by the Department when considering a trust acquisition?

There is little doubt that even under the current regulations local governments are receiving an opportunity to make their interests known in a meaningful way. The last fee-to-trust transaction completed by the Stockbridge-Munsee Tribe took over 3 years.

In fact, we have a current land-to-trust parcel that we are working with the Bureau on. It has been there since 1995. So, it is a very lengthy process. Local governments do have an opportunity and State governments do have an opportunity to involve themselves currently in the process.

The Stockbridge-Munsee position on the final rule is influenced by our own unique historical perspective. What I would like to do now with the balance of my time, and in the interest of time, I would like to put up a few maps here.

The Stockbridge-Munsee Tribe's history presents at least as compelling an example as any tribe in the country of the past failures of the United States policy with respect to tribal lands.

What you see here in this first map represents the final treaty that the Stockbridge-Munsee entered into with the Federal Government in 1856. It provided us with the two-reservation township.

The second map shows what happened in 1871 when Congress authorized the sale of three-fourths of the tribe's reservation, mostly for its valuable timber. The act passed in 1871. It took away about 34,000 acres.

The third map: By the time the Indian Reorganization Act was enacted, the land base had dwindled, as you can see, to nearly nothing.

Finally, this last map indicates what has happened on our reservation since the passage of the Indian Reorganization Act. All those areas shaded in yellow represent trust land that was acquired since 1934. The green represents the land that we own that is not in trust. The red and the blue that you see there indicates land that was ours just immediately preceding the Act of 1934.

So, that is a quick snapshot. That sort of covers the changing Federal policy and how that impacted our particular tribe. I am sure that our story that we tell here can be repeated by every tribal leader who sits behind me.

Again, I want to take this opportunity to thank you for welcoming us here today. I will be glad to answer any questions.

[Prepared statement of Mr. Chicks appears in appendix.]

Senator CAMPBELL. Okay, I am sure we will have some. Before we proceed, though, Senator Wellstone is here and a number of people in the audience today are his constituents. Perhaps you would like to make an opening statement before we go on, Senator.

STATEMENT OF HON. PAUL WELLSTONE, U.S. SENATOR FROM MINNESOTA

Senator WELLSTONE. Thank you. I want to move this along because I am anxious to hear the rest of the testimony.

I want to extend a very warm welcome to Ms. Benjamin who is chief executive officer of Mille Lacs Band. Welcome Melanie, and thank you for your very good leadership. To Eli Hunt, chairman of Leech, thank you for being here as well. That is the Leech Lake Band. And Doyle Turner, chairman of the White Earth Band. Melanie and Doyle were elected for the first time, Mr. Chairman, in elections last year. I believe, Eli, you won reelection. I thank you for your leadership and look forward to your testimony.

Mr. Chairman, I think we have represented here today some very strong and very progressive leadership in Indian country in Minnesota. Thanks to each of you.

Senator CAMPBELL. Thank you.

Ms. Benjamin, before you start though, could I ask Chairman Chicks, we have a smaller map in our briefing book as the one that is up there, but I am not clear about all the colors. The green, did you say the green is tribal lands owned but not in trust?

Mr. CHICKS. Right. The green is tribal fee lands. There are about 2,500 acres of tribal fee lands.

Senator CAMPBELL. And the yellow?

Mr. CHICKS. The yellow is tribal trust.

Senator CAMPBELL. And the red and the purple?

Mr. CHICKS. Those were the lands that were really left to us prior to the passage of the Indian Reorganization Act.

Senator CAMPBELL. I see.

Mr. CHICKS. So, from the very first map it showed the entire 46,000 acres.

Senator CAMPBELL. Right. Now the red and purple are the only pieces left from your original. I see. Okay. Thank you.

Ms. Benjamin, would you proceed?

STATEMENT OF MELANIE BENJAMIN, CHIEF EXECUTIVE OFFICER, MILLE LACS BAND OF OJIBWE, ONAMIA, MN.

Ms. BENJAMIN. Good morning. Thank you for those words, Senator Wellstone.

Mr. Chairman and members of the subcommittee, my name is Melanie Benjamin. I am the chief executive of the Mille Lacs Band of Ojibwe in Minnesota. As a member of the Midwest Alliance of Sovereign Tribes, it is my honor to present the views of the Mille Lacs Band.

Today, I respectfully request that the committee introduce legislation in three areas. First, amendments to title IV of Public Law 93-638, the Self-Governance Act as it applies to the BIA and the Department of the Interior are needed to reflect advances made in title V.

Second, legislation relating to the transfer into trust, immunity from exercise of local and State jurisdiction and the non-alienability of tribal fee land within reservation boundaries should be introduced.

Third, and economic development grant program should be established under Public Law 102-477 to create new jobs in Indian country for those formerly under general assistance programs who are now attempting to achieve self-sufficiency.

Title IV Amendments and Tribal Self-Governance: The development of self-governance is probably the most significant enhancement of the United States/Tribal Relationship since the treaty era.

Through self-governance, the band has been able to develop economic activities to employ its members, construct facilities for education and health needs and establish public water systems and housing.

Over the past 10 years, the band has made progress unlikely to be matched in the future by any BIA program. It was the belief of the Mille Lacs Band, when it entered the self-governance movement, that when the BIA received a budget increase, we would receive a budget increase as well.

Based on a cursory review of their appropriations for the BIA over the past 7 years, we note that the Bureau has received a substantial increase. During this time period the Mille Lacs Band's base budget has declined.

It is our view that our budget should reflect gains made by the BIA. We believe that this issue should be addressed in legislation and is currently detrimental to the self-governance policy. The solution is to require the funding of tribal-base level budgets at a level proportional to the funding increase in the BIA and the Department of the Interior budgets.

Legislation on tribally-owned fee lands: There are few statutes relating specifically to the status of fee simple lands owned by a tribal government within the reservation. This lack of guidance is generating a large number of issues. The result is that courts have to determine many matters without any guidance.

Furthermore, because of the difficult in moving land into trust, there are numerous problems developing out of this issue as well. Congress should consider the enactment of legislation that would provide a special status for tribally owned fee lands within reservation boundaries.

New Economic Development Amendment: Public Law 102-477, the Indian Employment and Training and Related Services Demonstration Act of 1992 allows tribes to integrate the employment, training and related services they provide in order to improve the effectiveness of these services, reduce joblessness and serve tribally-determined goals.

However, without job opportunities, any welfare-to-work programs will fail. The Mille Lacs Band would like to propose that Congress develop a tribal demonstration project, which would include economic development grants. These demonstration projects should have stable-based funding and be awarded to competitively selected Indian tribes and Alaskan Native villages for comprehensive economic development. Indian families cannot move from welfare to work if there is no work.

Mr. Chairman, this is an abbreviated statement. My full statement with charts, graphs and other supporting documents are submitted to you in full. Thank you for this opportunity to share the view of the Mille Lacs Band.

Thank you.

[Prepared statement of Ms. Benjamin appears in appendix.]

Senator CAMPBELL. Thank you.

Mr. Hunt.

**STATEMENT OF ELI HUNT, CHAIRMAN, LEECH LAKE BAND OF
OJIBWE, CASS LAKE, MN**

Mr. HUNT. Good morning, Mr. Chairman and members of the subcommittee. My name is Eli Hunt. I am chairman of the Leech Lake Band of Ojibwe in Minnesota. I am also here as a representative of the Midwest Alliance of Sovereign Tribes or MAST. MAST is a consortium of 136 tribes located in Michigan, Wisconsin, Iowa, and Indiana, with a total membership of 136,000.

The Leech Lake Reservation is located approximately 200 miles north of the Twin Cities. Health care services are provided by the Indian Health Service and the band under a Public Law 93-638 contract which services 13,000 people.

The Leech Lake Tribal Council affirms that American Indians experience a great disparity in their health conditions as compared with other races.

We want to work with Congress and the administration to achieve health parity for our people.

The Leech Lake Tribal Council is the duly recognized governing body of the Leech Lake Band of Ojibwe. The council believes that quality care is an essential service for citizens of the Leech Lake Reservation. The council is committed to achieve active involvement in structuring and prioritizing health care delivery to our people.

The council cites the Snyder Act of 1921, the Indian Self-Determination Act, as amended, and the Indian Health Care Improvement Act, as amended, as a basis for maintaining and fulfilling the trust, legal, and moral responsibilities of the Federal Government to American Indians and Alaskan Natives.

The Leech Lake Band and member-tribes of MAST acknowledge and appreciate the 8 percent increase in the IHS budget for fiscal year 2001. However, we must also note that it fell far short of addressing the unmet need.

Over the past 8 years, the IHS budget has grown by 36 percent, while inflation and population growth has created a need for a 58-percent increase to simply maintain program effort.

Throughout 2000, IHS has consulted with tribes and tribal and urban Indian organizations, including the National Congress of American Indians, the Tribal Self-Governance Advisory Group, the Level of Need Funding Work Group and the National Indian Health Board in the development of the fiscal year 2002 budget.

This process has led to the development of an \$18 billion needs-based budget. This figure includes a non-recurring \$8.7 billion facilities construction request and \$10 billion to help fund the health care needs of American Indians and Alaska Natives.

As a representative of the Leech Lake Band in MAST, I fully support the fiscal year 2002 recommendations made by the LNF Work Group.

We understand that the Indian Health Care Improvement Act will require reauthorization for fiscal year 2002 and beyond. Legislation to reauthorize and amend the act is pending before this committee, S. 211, and before the House as H.R. 1662.

The Leech Lake Band and the MAST strongly support enactment of this critical legislation. Not only will this legislation continue the appropriation and authorization for the many critical health programs in the Act, but it also contains badly needed program authority to improve Indian health care delivery.

The band also has some specific concerns in the area of health care delivery with respect to contract support costs. We feel that these funds should be placed in a pool and equally divided. In the same vane, a more equitable policy for the distribution of facilities construction funding must be adopted.

In particular, the Leech Lake Band requests that there should be consideration for the funding of construction projects to improve or replace all inefficient or obsolete health care facilities.

The Public Health Service Hospital and Clinic located on Leech Lake has gross shortages in space and facility utilization that directly affects the ability of IHS and the Tribal Health Division to meet the needs of the 13,000 registered users.

Two satellite clinics have been constructed and staffed with mid-level providers to attempt to meet the health care needs in remote areas of the reservation. Through the use of third-party reimbursement this has brought an alternative approach to providing health care.

The band is also very concerned about the inadequacies of the Contract Health Care Program. These health care dollars are used for wrap-around services and are used for a priority system that rations care. The great need for contract health care is based upon the various illnesses within our population and is determined upon a life and death basis.

The IHS Health Care Program is in dire need of more funding to adequately address the needs for advanced Medicare in Indian country.

We would also like to note for the committee's consideration that the 2002 budget request does not include continued funding for redirected resources. This leaves no avenue for tribes to access Federal construction dollars. As a consequence there would be no chance at all for construction funding.

Finally, Mr. Chairman, we would like to note that the level of needed funding for IHS health care is below what we need to provide for all of our beneficiaries. Congress directed the IHS to work with tribes to develop a sound, logical rationale for the documentation of this need.

Dr. Trujillo formed a work group to do this. A formula that the work group developed involved a comparison of the funding we get with the amount of dollars we would have received if we had provided the same level of service as a Blue Cross Federal workers health insurance plan. That comparison showed that the national

average cost is \$3,500 per person. The IHS funding is \$1,600 per person.

Further analysis showed that the funding IHS receives is not equally distributed throughout the IHS areas. The Bemidji area gets \$850 per person and we are the lowest funded IHS area.

We respectfully request that this committee take action to bring every tribe up to at least 70 percent of the needed funding.

In addition, a special appropriation is needed to bring the Bemidji area tribes up to an average of 65 percent of level needed funding.

I have to make a correction here. In my statement I have submitted I believe there is a typo here. It reads "6.5." It is actually 65 percent. So, please make a note of that.

Mr. Chairman, this completes my statement on behalf of the Leech Lake Band of Ojibwe and the MAST.

[Prepared statement of Mr. Hunt appears in appendix.]

Senator CAMPBELL. Thank you.

Chairman Turner.

STATEMENT OF DOYLE TURNER, CHAIRMAN, WHITE EARTH TRIBAL COUNCIL, WHITE EARTH, MN

Mr. TURNER. Good morning. My name is Doyle Turner. I am the chairman of the White Earth Reservation Band of Ojibwe Indians.

Honorable committee members, I am honored to provide testimony today on behalf of our membership. We are talking today about law enforcement issues related to a high quality of life for our people.

We are experiencing limited economic growth, due in large to our gaming enterprise. The growth has provided increased employment opportunities and allowed us to add resources that are used to improve services to our clients.

However, the economic boom and period of prosperity that this country is experiencing collectively does not translate to the people of White Earth at the same pace as the dominant society. It does, however, present Indian country with many increased social problems and the need to address them.

Our communities are unable to participate in this improved quality of life if their living environment is not safe. My testimony today will focus on the need to provide a quality public safety program that not only includes a police unit, but it will merge our culture in a community policing effort.

The white Earth Reservation currently has a public safety program that has a police department funded primarily by Community Oriented Policing Service grants from the Department of Justice. Our police force, established in 1995, is able to maintain a relatively small force that, because of limited resources, is unable to effectively serve our area of jurisdiction.

Minnesota, as you know, is a Public Law 280 State, which allows the State and counties to assume concurrent jurisdiction with the tribes. In addition, recent court cases state that Indian tribes in Minnesota must assume civil authorities in civil matters. These court actions add a new demand on our law enforcement and judicial efforts, which further dilutes our limited public safety resources.

All Indian country is currently impacted by the return of membership to the reservation from urban area because of our economic growth, availability of employment, and the restriction imposed by the welfare reform timeframe for assistance.

This population shift from areas outside the reservation brings with it housing shortages, increased substance abuse issues, gang-related activities and increased domestic problems, all of which creates social unrest and a greater involvement from the reservation law enforcement and judicial services.

We appeal to this committee today to assist us in the following areas:

The current timeframe that funded the Department of Justice COPS grant be extended to allow the continuation of our public safety efforts and police department. The reservation does not have a tax base to draw funds to assume the financial responsibility for the COPS grant program.

Increased funding for our court system to allow for the development and implementation of criminal and civil codes. Funding would provide for the professional prosecution and defense for the membership.

Funding for community policing, auxiliary police, youth cadet programs and prevent in the substance abuse programs.

Funding for the construction of a correctional facility. Currently a violator who is arrested and prosecuted through our courts cannot be confined to a holding facility because there is none available, and the cost to house prisoners in a county facility is too costly.

In summary, the White Earth Reservation must provide a safe environment for our people. If this can be accomplished it will improve our quality of life by expanding our economic base and reducing social problems. I am leaving a narrative of my presentation and a listing of unmet needs for the record.

I thank you for this opportunity today to testify before this committee.

[Prepared statement of Mr. Turner appears in appendix.]

Senator CAMPBELL. Thank you.

Let me ask you, Chairman Turner, first, since you talked about the police matter, I am very interested in that. You know during the Clinton years we passed legislation that was sometimes called the "100,000 Cops Program" in which grants were given to jurisdictions, including tribal jurisdictions, to hire police. Did your tribe avail itself of that? Did you use any of the money to hire police?

Mr. TURNER. Yes; we did.

Senator CAMPBELL. What happened at the end of the timeframe that that went out? We got feedback from some communities, but not tribes, that that money was good, as I remember, for 3 years. But after that, the local jurisdiction had to pick up the cost of the policemen. Some of them couldn't do that. Did that affect you?

Mr. TURNER. That is our position. We are unable to pick up the needed funding for the continuation of that grant.

Senator CAMPBELL. So, did you have to lay those police off or what?

Mr. TURNER. It is coming up this year. We are in our third year now. So, it is a critical need right now.

Senator CAMPBELL. Well, funding for tribal programs is always a problem, obviously. We deal with it every year. I might say, too, it has been my view that when you talk about grants, as several of you have done, I support the grant system, but I have always been personally worried about tribes that get too dependent on grants because they are here today and they are gone tomorrow.

Some of them don't go on. Sometimes they are one time and what happens sometimes, these programs are set up using the grants and then if the money is not forthcoming for additional grants, then the program suffers or atrophies. Sometimes we can't provide the money for the grants to go on and on indefinitely. I just thought I would mention that.

Chairman Chicks, is it your position that off-reservation acquisitions involve local government's input? That has been a question, you know, about how much local input should there be when tribes take land into trust.

Mr. CHICKS. Well, yes, as a matter of fact, land that goes into trust outside the tribe's reservation boundary weighs heavily with the State and local governments. But I think even land that goes into trust inside a tribe's boundaries, local governments are becoming more and more involved in that process and their involvement has slowed down that process tremendously.

I mentioned the number of years it took us to acquire small acres of land to put them into trust. There are tribes that I know of that have had even 5, 10, or 15 years waiting for land to go into trust.

So, the more involvement of the local communities in that process, the slower and more cumbersome it actually becomes.

Senator CAMPBELL. Yes; I agree, it does become slower. But in my view it sometimes is a wise and prudent thing to do. We did a series of hearings a few years ago. One of them was in Washington. I remember some of the testimony at the time from local government, non-Indian government, local government was that when tribes put land into trust they don't have to comply with local zoning codes or building codes or any of the other things that everybody else does in that area.

If nothing else, that creates some bad blood between Indian and non-Indian. So, I have always encouraged tribes to, whether they have to legally or not, to be involved with local jurisdictions when they are talking about taking land into trust, particularly when it is non-contiguous.

Chairman Benjamin, I want to tell you, any suggestions you have that you can give the committee to spark private development would be well received. We passed something like 55 bills last year. We had a very, very productive year this last year, as you probably know. Some of them went through on their own merits, self-standing bills.

But in about a dozen of them we had to go over and work with the House leadership and include them as one package in the last waning hours of the Congress so we wouldn't have to start all over with them this year.

Most of them dealt with strengthening local economies, dealt with health care, with improved housing and a number of things that I thought were pretty good.

So, we had a great year. But that doesn't mean we are done, obviously. So, any specific suggestions you have that we can do to improve local economies, I would certainly support them. I know many Indian people come in that they talk about economic development. But they have the feeling that the way for economic development is to get a grant and that grant provides some jobs on the reservation and that becomes economic development.

But out in the other world, that is not usually the way it works. You know, grants are one-time or two-time, but it is not something you can rely on to go on forever. There has to be something that you do that provides the profit margin that people want and that is what sustains most local economies.

Did you want to make a comment about that?

Ms. BENJAMIN. Yes; we would welcome your statements. Also, we will send in suggestions for that.

One of the things I wanted to focus on, too, especially the welfare-to-work, a lot of those individuals who are in that program don't have an education, don't have work skills and those types of things. When you do have a business, you are trying to generate revenue. For governmental services, training and education are part of that job.

But when you are looking at your for profit business plan, what do you focus on? Generating that revenue or trying to bring training in for individuals? That may cause revenue not to be as high because you are focusing on training.

So, that is where we are looking. How do you train people so when they go into those businesses as employees they have skills, they can assist with generating revenue, and they can make those businesses profitable?

Senator CAMPBELL. May I ask how far your reservation is from a major city population base?

Ms. BENJAMIN. We are about 100 miles north of the Minneapolis-St. Paul area.

Senator CAMPBELL. North.

Ms. BENJAMIN. Yes.

Senator CAMPBELL. Senator Wellstone, did you have some questions before we go on?

Senator WELLSTONE. Thank you, Mr. Chairman. I actually will be briefer than I want to be because I have to get back for a conference call in 10 minutes.

Let me just try and pick up on a few things that were said and it would be not so much of a question for them, but I want to make sure that I have kind of understood what I have heard, in particular from Minnesota.

I think, Mr. Chairman, that one of the things that you have heard from Chairwoman Benjamin is—and I hear it a lot in Indian country—first of all we have people that are now, as we are bumping up against time limits, we have people from urban areas who are moving back to reservations.

The real issue is, and with the exception of some people you have to admit that, but the vast majority of people would dearly love to get out from under the thumb of welfare. They would much rather be working.

But when you have an unemployment rate of near 50 percent, the real question is whether we are going to end up just pushing a lot of people off a cliff. This is a real issue. I think right now, with the exception of the 20 percent work requirement in Indian country, if you have unemployment of 50 percent or over you are exempt—is that correct—from this?

But below that, if you have 49 percent, which is a pretty high level, there is a very real concern as to what is going to happen. I think it is well worth looking at.

I know the committee through technical amendments last year did some good work. But I think that Ms. Benjamin's point of how we meet that challenge and also on some of the economic development, including some of the work force development and some of the skills development is really right on the mark. I think that is what you are really trying to do.

Listening to Chairman Hunt, I think this budget is I mean I am not going to rant and rave or have you and I get into a debate. We probably wouldn't anyway. You know, everybody is doing their best. But when you look to a 4-percent increase, it is not a cut, but on the other hand, it doesn't deal with the history or legacy of keeping people down.

I think the health care issue that Chairman Hunt talks about is critical, critical. I am real worried about the gaps there.

Finally, I don't know what to say to Chairman Turner. We have been working some with you. It is a tough one because, as you said, everyone knew that this was going to be 3 years and then to pick it up on your own, on the other hand, I think part of what the chairman is saying to you, Mr. Chairman, in many ways the whole question of law enforcement and tribal court administration is actually quite related to economic development.

So, we have some tough challenges. We don't have the kind of budget we want. We are going to have to stay with the advocacy. If that is an okay summary, I just want to reiterate what you said, thank you for what you said, and you know, we will continue to, of course, work together.

Thank you, Mr. Chairman.

Senator CAMPBELL. We have a number of bills that are up for reauthorization this year and welfare reform is one of them. So, you might be thinking of that if you have some suggestions how the last one has affected Indian people.

With that, we will go on to the next panel. We thank this panel very much. I might tell you that if you have some additional comments you are certainly welcome to turn those in.

The second panel will be Richard McGeshick, chairman of the Lac Vieux Desert Tribal Council; Gerald Danforth, chairman of the Onieda Nation, Onieda, WI; Gerald Chingwa, chairman of the Little Traverse Bay Bands of the Odawa.

We will just go ahead and start in that order. Chairman McGeshick, would you like to begin?

**STATEMENT OF RICHARD MCGESHICK, SR., CHAIRMAN OF THE
LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA
INDIANS OF MICHIGAN**

Mr. MCGESHICK. Good morning. Good morning, Chairman Campbell and distinguished members of the committee. My name is Richard McGeshick, Sr., chairman of the Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan, a federally recognized tribe.

I appreciate the opportunity to testify before this committee this morning. Today, what I am going to talk about is the law enforcement. In today's time and economic growth and Federal budget surpluses we continue to ignore tribal treaty rights and other legal obligations owed to Indian country.

If the Federal obligations to Indian tribes were being met, I would not be seated before today to review the following relevant needs of the MAST. But since they are not, let me begin with the topic of law enforcement.

The key principle of the Federal-tribal relationship is to protect and encourage Indian self-government. A key component in this goal is providing adequate police law enforcement, services and facilities throughout Indian country.

This crisis is evidenced by the homicide rate of the Indian lands that has soared 87 percent in the last 5 years, even as the homicide rate declined nationwide by 22 percent. Many tribes throughout Indian country lack adequate funding to provide the basic security for their communities, such as 24-hour services for the police force.

In addition, many police units on reservations lack the technical and human resources they need to ensure their safety.

In discussion with the police captain, Mike Hazen, it was learned that the tribe has spent over \$700,000 in constructing a tribal police headquarters. In addition, over \$867,000 in tribal contributions was given to the LVD law enforcement program over the past 5 years.

It is my understanding that the tribal council, based upon promises made by the Department of Justice and the Department of the Interior that supplemental program funding would be forthcoming, approved much of these tribal expenses.

As I have been informed, however, no additional Federal dollars have been received by the tribe to date. Without an immediate influx of Federal program dollars, the tribal police department will not be able to meet its expectations of providing appropriate law enforcement to protect our community.

Our goal at LVD is to secure necessary support for these Federal agencies to utilize our newly constructed police facility for the benefit of Indian and non-Indian citizens throughout the entire region of Gogebic County, MI. We even supply some help to the Michigan State Police.

The next greatest relevant need, however, is economic development. This is an area that is probably one of the most critical for LVD and most all tribes. Through viable economic development and economic expansion plans, most, if not all other tribal needs can be met.

Congress must support these efforts in the following ways: First, an expedited trust land acquisition process. Second, increasing au-

thority for tribes to initiate tax-free bond offerings. Third, increasing tax and investment incentives, such as tax-free capital gains on interest generated from the financing of tribal development projects by private investors. Fourth, increased accelerated depreciation of equipment. Fifth, provide Federal funding incentives to State and local governments that actively and fully in the cost sharing of Indian economic ventures that will direct benefit non-Indian communities as well as tribal communities.

The next greatest needs would be the Indian health. As I know, the IHCA expired at the end of fiscal year 2000, making it even more critical that this Congress reauthorize one of our most important Federal Indian laws addressing health care for our people.

In the past 6 years, LVD health care services have increased substantially in each of those years, with the cost of operating the tribe's health clinic increasing as well because of the increase in the tribal community.

As with many tribes, our cancer and diabetes rates are well above national average. In addition, alcoholism, drug abuse, suicides, teen pregnancy, and domestic violence continue to destroy and demoralize our tribal communities.

LVD is currently in the process of compiling health care statistics on current service area populations, along with current health care and services costs and projections. As the increased health care needs of the tribe's service area population over the next ten years grows, we will provide a report to Congress and the administration of such findings, once completed.

We hope that this information will help to increase the tribal Federal health care funding.

In conclusion, I wish to thank the chairman and the distinguished members of the Senate Committee on Indian Affairs for the opportunity to testify today on these issues. I will answer any questions and I thank you for the time.

Senator CAMPBELL. Thank you, Mr. Chairman. I have a few questions, but we will go on to Chairman Danforth and Chairman Chingwa before we proceed with questions.

STATEMENT OF GERALD DANFORTH, CHAIRMAN, ONIEDA NATION, ONIEDA, WI

Mr. DANFORTH. Mr. Chairman and members of the subcommittee, [Native words]. That means "hello and this is a very good day."

I am Gerald Danforth, chairman of the Onieda Tribe of Wisconsin. I would like to comment on three areas: First, amendments to the Indian Gaming Regulatory Act; second, the oversight hearings that tribes would like this committee to consider during the 107th Congress; and third, the economic impact that Indian gaming has had on MAST-member tribes.

First of all, amendments to the Indian Gaming Regulatory Act. Mr. Chairman, this year, you along with Senator Inouye introduced the Indian Gaming Regulatory Improvement Act of 2001. There are several provisions in this bill that have been topics of discussion among tribes and tribal gaming regulators for several years.

This bill comes as welcome news to Indian country. Specifically, the bill is helpful in the following ways: One, it provides that class

II games using electronic, computer or other technical aids are not to be defined as gambling devices under the Johnson Act.

This provision will bring IGRA into conformance with several recent court decisions which held that many of the technical aids used by tribes to assist in the playing of bingo or pull-tabs do not violate the Johnson Act.

Second, this act also requires tribal gaming commissioners and commission employees to become subject to background checks, similar to those required by key management and employees of gaming facilities. We believe that this provision closes the gap under current law and provides a fair standard for gaming licenses.

It also requires the National Indian Gaming Commission to levy fees against tribal operations that are reasonably related to the duties and services provided by the commission to tribes. In certain instances it reduces the level of fees payable by those operations.

The Onieda Tribe alone pays over \$9 million annually for regulation of our casino. That is \$9 million annually. I have to emphasize that because what it causes me to think of is this past 10 months, we have struggled at length to secure bonding with the bank to pay for a \$15-million health care facility in Onieda.

When I think about \$9 million annually that is going to regulatory matters, compared to this \$15 million health care facility, I compare those two. There are a lot of needs associated with health care and other important matters that could be addressed.

So, I guess I would like to say that we would like to take measures to assure that these dollars generated by the casinos to the greatest extent possible come back to the tribal communities and be directly attributed to those infrastructures and issues that are important in those communities and that unnecessary regulatory, and I will emphasize "unnecessary regulatory overlap" be minimized.

Another area is that the proposed amended act directs the NIGC to commence a process of negotiated rulemaking to promulgate regulations relating to the monitoring and regulations of tribal gaming, the establishment of regulation of internal control systems and the conduct of background investigations.

In all those words, I emphasize "negotiated" rulemaking. Such regulations must be published in proposed form within 1 year of passage of this bill.

In a change from last year's bill, the current bill would sunset NIGC's minimum internal control standards 1 year after passage of this bill. Although the bill addresses several concerns raised by the tribes over the past few years, it does have some weaknesses to it. I will highlight what we believe those weaknesses are.

One, it does not provide an alternative compacting process that tribes have requested since the Supreme Court decision in Seminole.

Additionally, we believe that IGRA should be amended to more clearly and forcefully prohibit the ability of States to demand financial compensation from tribes as a condition before entering into or extending class III gaming operations.

In the recent past the BIA has been far too willing, we believe, to approve such provisions under the guise that tribes are paying for exclusivity in the gaming market.

Next, I would like to address the issue of NIGC oversight. We believe that this committee should hold hearings on the following issues: The authority of the NIGC. Over the past few years, NIGC has engaged in an aggressive effort to expand its jurisdiction. They have promulgated regulations extending their authority over class III gaming, an area where tribes and States have already developed regulatory agreements under tribal-State compacts.

The NIGC is also nearing completion of health and safety regulations wherein the tribes and the commission would concurrently have regulatory authority to ensure tribal gaming facilities are constructed or maintained and operated in a manner which protects the environment, the public health and safety.

Although the tribes believe and continue to demonstrate that gaming must be stringently regulated and conducted in a safe environment, we believe that NIGC has extended itself beyond the scope of the authority provided under current law.

Tribes are the primary regulators of their gaming establishments. The commission and the States taking on their respective roles, as mandated under IGRA, the NIGC should not be allowed to simply develop regulations that create the wheel or recreate the wheel to enhance their own authority. And Congress must be vigilant to make certain these boundaries are maintained in order to protect the integrity of the act.

We would also like the committee to hold oversight hearings on the staffing of NIGC. NIGC has received a significant increase in funding from the tribes over the past few years. Congress should have the opportunity to fully understand how that money is spent.

Again, tribes are not, and I emphasize "not," attempting to suggest that we don't want to be regulated, but rather we are suggesting that the reach of Government be kept in check with the authority that is conveyed under the law.

Last, I would like to comment on the economic impact of gaming for MAST-member tribes. Of the 36 MAST-member tribes, 33 are gaming tribes. The intention of Indian gaming is to help tribes and Indian people grow stronger and become more self-sufficient. Indian gaming is helping many tribes like ours rebuild their reservation communities.

It is also bringing significant economic benefits to the non-Indian community in these areas. Nationwide, Indian gaming is providing more than 200,000 jobs. More than 200,000 jobs. Many of those are held by non-Indians.

The Onieda Tribe is an example. It is one of the largest employers in Brown County. Brown County is one of the most heavily populated counties in the State of Wisconsin. Altogether, we have over 3,100 employees. Of that, 1,500 of those employees are engaged in our gaming operation; 40 percent of our total employee base are Onieda; 9 percent are other Indian tribes; and 51 percent are non-Indian employees.

So, the benefits that gaming brings to non-Indians doesn't stop at the boundaries of the reservation. MAST-gaming tribes are creating economic growth in many ways.

There is less welfare in areas with Indian gaming facilities, more tax income from employee wages to State and local governments, growth in spin-off businesses near casinos and vendors and other

suppliers have grown their businesses to meet the needs of Indian gaming facilities.

The projected impact of Indian gaming nationwide is more than \$12 billion per year. For Onieda and other MAST, gaming also brings benefits to our communities and tribal members. In Onieda, gaming revenues have allowed us to build a new police department, have allowed us to provide new and improved housing, affordable housing for our elders and middle income housing.

It has allowed us to build a school, kindergarten through high school, a daycare facility, and most recently, as I mentioned earlier, we just secured bonding that is going to allow us to build a new health care facility.

Mr. Chairman, this is only the beginning. The list of benefits that Indian gaming brings to our communities and to the surrounding communities could go on indefinitely. But I will stop my comments here. I want to thank you and the committee for hearing our testimony today and we look forward to working with you on our legislative priorities in the 107th Congress.

[Prepared statement of Mr. Danforth appears in appendix.]

Senator CAMPBELL. Chairman Chingwa, why don't you go ahead and finish this panel?

STATEMENT OF GERALD CHINGWA, CHAIRMAN, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS, PETOSKY, MI

Mr. CHINGWA. Thank you. Good morning, Chairman Inouye, Vice Chairman Campbell and members of the committee.

I am going to read from my prepared text. It is only 1½ pages to 2 pages. So we will all be on the same page. My testimony today is regarding the opposition to diversion of Great Lakes water and our concern to the compromise of the diversion of Great Lakes waters.

My name is Gerald V. Chingwa. I am the chairman of the Little Traverse Bay Bands of Odawa Indians with tribal headquarters located in Petosky, MI. I am also chair of the Great Lakes Resource Committee, which is part of the Chippewa Odawa Resource Authority, which is a group which manages Great Lakes resources as part of the consent decree negotiated between the United States, the State of Michigan, and the five tribes in Michigan.

I am also an executive officer of MAST, acting as treasurer.

As the Great Lakes are absolutely critical to our tribe, we appreciate your efforts to protect them from degradation and diversion. From pre-European contact through the present, the members of the Little Traverse Bay Bands of Odawa Indians have relied on the Great Lakes for our subsistence and commercial livelihood and transportation.

Given the importance of the Great Lakes to our way of life, we are gravely concerned that the compromise being considered between the State of Michigan and the United States regarding removal of water from the Great Lakes omits Little Traverse Bay Bands of Odawa Indians, as well as other tribes from the parties that determine the fate of these sacred waters.

This compromise is referenced in the Traverse City Record Eagle on June 30, 2000. On June 27, 1999, our tribe enacted its own Great Lakes protection statute, Waganakising Odawa Statute

1999010. Our overriding interest is stated in the preamble to that statute which reads:

The bands that make up the Little Traverse Bay Bands of Odawa Indians historically resided in the Great Lakes region in harmony with the natural environment since well before the arrival of the Europeans.

The Great Lakes, especially Lake Michigan, Huron, and Superior, have provided the tribe with food, water, and transportation for hundreds of years.

The central mission of the tribal government stated in the tribe's constitution is to provide for the perpetuation of our way of life and the welfare and prosperity of our people, to preserve the right of self-government and to protect our property and resources.

Preserving the environmental quality of the Great Lakes and their resources for the present and future generation is absolutely essential to the tribe. This statute is enacted to help protect and preserve the Great Lakes ecosystem.

As stated in section IV of that same tribal statute, any degradation or destruction of the Great Lakes violates our treaty rights, the "supreme law of the land," and therefore it violates Federal law:

Under article VI of the U.S. Constitution.

All treaties made or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

The Little Traverse Bay Bands of Odawa Indians was a party to numerous treaties with the United States, including the 1836 Treaty of Washington, 7 Stat. 491 in which the tribe reserved the right to utilize Great Lakes resources for subsistence and commercial purposes. Federal courts have upheld the continued vitality of this treaty right.

Degradation and destruction of the Great Lakes ecosystem constitutes an unauthorized limitation and negation of this treaty right. Any such degradation or destruction therefore violates the "supreme law of the land."

Any drilling, sale or diversion which has the potential for impacting the waters of Lakes Michigan, Superior, or Huron, ceded by the 1836 Treaty of Washington, would violate Federal law and tribal law, and the Little Traverse Bay Bands of Odawa Indians will take any appropriate and necessary action to prevent such activity.

Therefore, the Little Traverse Bay Bands sovereign status, its critical interest in preservation of the Great Lakes, and the fact that any action that negatively impacts the Great Lakes violates the 1836 treaty, which is part of the "supreme law of the land" makes it imperative that the Little Traverse Bay Bands of Odawa Indians be a part of any decisionmaking process that could result in the loss of Great Lakes waters.

I would include also in this part that the other tribes that are impacted by any sale or diversion of the Great Lakes be included.

The Little Traverse Bay Bands of Odawa Indians has submitted its concerns regarding this issue to all Michigan members of the House and Senate and submits with this testimony: Little Traverse Bay Bands of Odawa Indians, Waganakising Okawak Statute

1999010, entitled Protection of Great Lakes, resolutions from the Michigan Council of The People of the Three Fires, Resolution number 00-8, Preventing the Diversion of Waters from Great Lakes and Resolution 00-1, Protection of the Great Lakes; Resolution from the Midwest Alliance of Sovereign Tribes, Resolution 00-09 entitled Protection of the Great Lakes.

Finally, the Little Traverse Bay Bands of Odawa Indians with four other federally-recognized Michigan tribes, each signatories to the 1836 Treaty of Washington, and intervening plaintiffs with the *United States of America v. the State of Michigan, et al.*, engaged in extensive mediated negotiations to resolve differences concerning allocation, management and regulation of fishing in 1836 Treaty waters.

The interstate resulted in a consent decree and related documents detailing how fishing in 1836 treaty waters will be allocated, managed and regulated by the parties for the next 21 years.

The decree sets forth provisions to address Federal, State and tribal management and allocation concerns. 1836 treaty waters means all waters of Lake Michigan, Lake Huron, Lake Superior and connecting waters which are within the area ceded in Article First of the Treaty of March 28, 1836, 7 Stat. 491.

This concludes my testimony at this time. I thank you for your attention and great concern to this great issue fact our State and nations. Thank you.

Senator CAMPBELL. Thank you.

Let me proceed with a couple of questions. I was interested in your testimony, Chairman McGeshick. You seem to have a strong background in law enforcement. Does your tribe have a contract where you provide your own law enforcement or does the Bureau handle that?

Mr. MCGESHICK. We do it ourselves.

Senator CAMPBELL. You do it yourselves under a contract. Are your officers trained at the FLETC Academy in Arizona?

Mr. MCGESHICK. Yes, sir; right.

Senator CAMPBELL. Are they cross-deputized with other local jurisdictions?

Mr. MCGESHICK. With the Gogebic County Sheriff's Department. We are trying also with the Michigan State Police, but I am not sure how that is going.

Senator CAMPBELL. I might mention to you that all of us, Senator Inouye and all of us, serve in four or five capacities around this place. One of my other ones is that I am the chairman of the Treasury Subcommittee which provides an awful lot of resources to law enforcement through the Treasury Department.

We have had a number of programs come through that would benefit tribal jurisdictions as well as State or municipalities. I sometimes think that where we really fall down is that we don't notify the tribes that they can avail themselves to some of the things that we do around here.

But as you probably know, we passed two separate bulletproof vest bills. Several of us were involved in that. I read this with interest this morning in a police report that we have given over 140,000 vests now to different police departments to police officers that couldn't afford them.

You might look into that because we just reauthorized that, Senator Leahy of Vermont and I, last year. It is \$15 million a year for 3 years straight. Tribal groups are included in that.

In addition to that, a couple of years ago we passed some funding for what is called CTEK. It is the branch of the Federal Government that can transfer technology apparatuses, you know, scanners and listening devices and all kinds of things that can transfer to the local departments, too.

Those are done on a grant basis and tribes are also included in that, as any State, or municipal or sheriff's department, too. They can avail themselves to get some of the equipment that is surplus at the Federal level.

There was also a bill that passed a few years ago that I don't think tribes have availed themselves to very much. It was called the Cops in Schools Program. It provided money that would offset the cost of a policeman being a resource counselor for conflict resolution in schools, not there as an armed guard to prevent kids from fighting, but to be an additional resource person.

Tribes can also avail themselves to those Cops in Schools Programs. I might mention my own State of Colorado. Not one school applied for any of those grants before the massacre at Columbine High School. Now many of them are applying for those grants.

So, I just passed that on to you because I know you are interested in law enforcement.

Now, Chairman Danforth, you seemed to focus quite a bit on the Indian Gaming Regulatory Act and the Gaming Commission. Four years ago when we authorized the Indian Gaming Commission, their budget was \$2 million. Now, 4 years later, it has quadrupled. It is \$8 million.

Early this year they came in to see me and wanted that included to \$15 million. I don't know if they have come to see Senator Inouye yet or not. I haven't talked to him personally about it. But I was very reluctant to support that because we have gotten a number of comments from tribes that they not only monitor, regulate, and investigate, but they tend to be somewhat punitive and overly regulatory in some cases and don't have enough input from the tribes themselves.

I didn't support that but I just mention that, that they want to expand the scope of their jurisdiction. You know, I have been relatively supportive, and I am very supportive of Indian gaming, by the way. But I think that one of the weaknesses we face is like many agencies back here, they tend to grow and grow and grow.

With their growth comes more and more and more jurisdiction which means the local guys, that is, the tribes in this case, sometimes—well, I don't want to use the word "victimized"—but they are certainly not taken into consideration sometimes when these Federal agencies grow to a point where they are more interested in their growth than they are doing their job.

But I just wanted to mention that to you that there does seem to be a movement for them to grow some more.

Mr. DANFORTH. Your interpretation of the testimony is right on mark with what our concerns are. Again, I want to emphasize that it is not our desire to not have regulation, not have oversight, but

to not have excessive and to not have overlaps. So, I appreciate your support in that regard.

Senator CAMPBELL. I really didn't ask either one of you a question. I just wanted to make those comments.

But, Chairman Chingwa, I am not aware of this State-Federal agreement to divert water from the Great Lakes. Where is it going to and under what authority are they doing that?

Mr. CHINGWA. That is our concern. We are not included in any of the discussions. As a matter of fact, in the newspaper this morning there is an article about the Great Lakes Governors signing a pact to save waters. Again, the tribal governments are not included in these discussions.

As I cited in my testimony, there are a number of treaties that the tribes have entered into which involve the Great Lakes and the protection of the Great Lakes. Again, the tribes are being left out of those discussions.

To answer your question, I can't answer the question because I don't know where they are going.

Senator CAMPBELL. You can't answer the question because you are totally out of it.

Mr. CHINGWA. Because we are not included, right.

Senator CAMPBELL. So, you don't know whether they even want to divert it for municipal use or agriculture use or what.

Mr. CHINGWA. Well we do know, in some of the meetings that we have attended regarding this issue that is going to become an international issue eventually because of the shortage of water that people are experiencing in the Southwest and the country of Mexico. The entire city of Mexico City is collapsing because the water table is being used up. So, countries and other States of the Union are going to be clamoring for water.

We don't have any input at this point as though we believe we are legally allowed to have.

Senator CAMPBELL. You did mention though that you have made your own congressional delegation aware of your concerns?

Mr. CHINGWA. We have. We have been writing a number of letters. We do this on a regular basis. Hopefully we will get some results after this.

Senator CAMPBELL. I thank you.

Chairman Inouye.

The CHAIRMAN. Thank you very much. Before proceeding, I would like to apologize to all of you for being late. You will soon find out that there was a 2,000-car motorcade made up of Ford Explorers. It took me 2½ hours to arrive here. So, we have finished the parade.

They are here to participate in the hearing on Ford versus Good-year Tires.

Senator CAMPBELL. We can report that none of them turned over on their way downtown.

The CHAIRMAN. Although I wasn't here to listen to all the testimony, I have done some reading here.

First, to Chairman McGeshick, I know you recommended a legislative approach to expediting land acquisition for developing energy-generating projects. Can you describe this?

Mr. MCGESHICK. What we do is, you know, we go out and buy private property and then we exchange it with the Forest Service. What we want to do now is get some property next to our so we can expand and make some kind of a factory or something. We just don't have access to that any more because we don't have the funds to purchase the properties.

The CHAIRMAN. So, you want some legislation to make it easier to do that?

Mr. MCGESHICK. Yes.

The CHAIRMAN. After you have acquired the land, do you propose to place that in trust?

Mr. MCGESHICK. Yes; we do. We are in the process now to do some of that. But the process is taking a little longer than we expected. Hopefully, during the summer months, you know, it will change.

The CHAIRMAN. Can you also give us a description of what you mean by the bond initiative and tax and investment incentives that you recommend to stimulate economic development?

Mr. MCGESHICK. Well, not at this time I cannot. I could get it in writing within whatever timeframe that you are asking. We can get that to you.

The CHAIRMAN. I would appreciate that.

Mr. MCGESHICK. Okay, thank you.

The CHAIRMAN. If I may ask Chairman Danforth, you spoke of gaming as I walked into the hearing room. You were complaining about the lack of staff. Have you done some comparison, say, with the State of New Jersey?

Mr. DANFORTH. I don't recall talking specifically about a lack of staff. I think my comments reflect more toward the over-staffing of the regulatory body.

The CHAIRMAN. This might interest you. We did some research. The State of New Jersey spends \$58 million a year, has over 200 auditors and investigators regulating 12 casinos with \$4 billion in annual revenue.

In Indian gaming there are 75 employees to oversee 214 gaming operations with gross revenues of \$10 billion. So, if you compare it with New Jersey, it would appear that the National Indian Gaming Commission oversees 10 times the number of operations and yet spends less than 15 percent of what New Jersey spends.

Do you believe that four or five employees for each of the field offices is sufficient?

Mr. DANFORTH. I can't speak to that specifically, Mr. Chairman, but I can provide some specific recommendations given a few days for research.

The CHAIRMAN. I would appreciate it if you could provide the committee with details on how many you think would suffice because in Indian country, unlike New Jersey, there are vast areas of travel involved. In the case of New Jersey, it is just Atlantic City, for example.

So, your detailed explanation would be most appreciated.

Mr. DANFORTH. I will do that.

The CHAIRMAN. If I may now, I would like to ask Chairman Chingwa. You know, I spent about 9 months in Michigan in a hos-

pital in Battle Creek, so I spent a few weeks up in your area. It is a beautiful area.

You just indicated to the chairman's question that your tribe was not involved in the discussions or negotiations between the States and the Federal Government.

Mr. CHINGWA. That is correct. There are some invitations, you know, in a general sense addressing issues now, which are coming from the United States, mostly from the environmental offices.

The CHAIRMAN. Did you request that you be included?

Mr. CHINGWA. We have in many ways requested the tribal involvement, not only through the Little Traverse Bay Bands but through other organizations that the tribe is a member of, specifically with the Chippewa-Odawa Resource Authority, which is part of the consent decree, and also with the Great Lakes Resource Committee which I am part of.

There are references from time to time that we do have input through various State organizations, which we really actually don't because we only have a less than advisory opportunity to address these folks.

There are some references also to groups in Ontario and Quebec that have more authority in the determination of the Great Lakes than the tribes do. I think that is less than an outrage, but it should be a concern that we ought to be looking at.

The CHAIRMAN. The documents that you cited in your testimony will be made part of the record, but would they clarify this situation?

Mr. CHINGWA. Clarify the lack of involvement?

The CHAIRMAN. Yes.

Mr. CHINGWA. Not necessarily. It clarifies the interest of tribes that are within the Great Lakes area of their interest in the management of the Great Lakes as a resource and their concern that there is diversion taking place or planned diversion that would affect the Great Lakes and its treaty waters.

The CHAIRMAN. And your letters, were these letters responded to?

Mr. CHINGWA. Yes; they were.

The CHAIRMAN. May we have copies of your exchange of letters with the Federal Government?

Mr. CHINGWA. Yes, sir; I will make sure that you get a copy of those.

The CHAIRMAN. With these documents, I can assure you that the committee will look into this question.

Mr. CHINGWA. I appreciate it. Thank you.

Senator CAMPBELL. Mr. Chairman, could I ask one more question of Chairman Danforth?

The CHAIRMAN. Yes.

Senator CAMPBELL. Chairman Danforth, you raised a point about New Jersey, the cost of monitoring to the State of New Jersey, the number of people and the costs. It was rather surprising to me that they paid that much.

But as I understand it, and tell me if I am wrong, Chairman Danforth. You comply with Federal monitoring of the commission. You also have some tribal monitoring within the tribe, I assume, and you have some monitoring by the State, too. Is that true?

So, you have three levels of monitoring as it is now, unlike the State of New Jersey which, I assume, has one?

Mr. DANFORTH. Three official levels, the Federal, the State and our own Tribal Gaming Commission is a seven-member commission. They serve 3-year terms. They go further into our own internal security and monitoring and observation.

So, altogether, through our internal security and Gaming Commission and licensing agent, and the State's regulatory body who we pay to, also, and the gaming fee that we pay to the State each year, all totals, just for our tribe alone, more than \$9 million a year.

Senator CAMPBELL. More than \$9 million? That is the cost to the State?

Mr. DANFORTH. No; that is our total cost for Federal, State, and local, tribal regulatory matters.

Senator CAMPBELL. Do you have any idea about what the total cost is to all tribes if you add those three different levels, State, local and their Federal costs?

Mr. DANFORTH. I would have to just to just speculate. But I will find the answer and I will submit that.

Senator CAMPBELL. I would appreciate if you would make that information available to the committee if you can find it.

Mr. DANFORTH. I will do that.

Senator CAMPBELL. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. I would like to thank Vice Chairman Ben Nighthorse Campbell for chairing this hearing.

One behalf of the committee, once again, I thank this panel of witnesses very much.

I now call the members of panel III, Ms. Ardith "Dodie" Chambers, treasurer of the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan; Mr. Thurlow "Sam" McClellan, councilor, Grand Traverse Band of Ottawa and Chippewa Indians of Michigan; Ruby Camp, council member, Lac Vieux Desert Tribal Council of Michigan; Mike Christensen, council member, Lac du Flambeau Tribal Council of Wisconsin.

Welcome to the committee. May I now call upon Ms. Chambers?

**STATEMENT OF ARDITH "DODIE" CHAMBERS, TREASURER,
GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS
OF PESHAWBESTOWN, MI**

Ms. CHAMBERS. Good morning. Thank you for having our tribe here. My name is Ardith Dodie Chambers. I am a member of the Grand Traverse Band of Ottawa and Chippewa Indians in Peshawbestown, MI and the treasurer of our tribal council.

I have served my tribe all of my adult life. You have facts and figures in front of you as far as housing, what our own tribe has.

What I want to do is tell a story about how that happened and what we don't have. So, at this point, I was involved with Federal recognition of our tribe back in 1980. Prior to that, when I left home there were about 10 houses left in our village. Our village was struck with small pox back in the 1800's and a lot of people died.

But back in the 1960's now, there was as few as 10 houses left at our tribe. This was because we did not have Federal dollars and

we were not considered a federally acknowledged tribe by the Government. So, it took us a few years to gain Federal recognition from the United States. This happened on May 27 and we started receiving Federal dollars at that time.

Today, our tribe is still very small. It is a very small tribe. We have 3,682 members and only about one-half live in our service area of six counties. The other one-half is nationwide. We even have some in Germany.

Our tribe is a member of NCAI, MAST, and the National American Indian Housing Council.

In the 1960's, when I left home, there were about 10 houses and maybe 20 kids. After we gained Federal acknowledgement, we started receiving Federal dollars and saw our first improved housing. We had no new housing yet. We had rehabilitation moneys from HUD to help fix our houses up.

I was 18. We had no water in the house, no bathrooms in the house. I graduated from high school in that condition. So, later on, after we became federally recognized, this was a great improvement for our tribe, having water in our houses and bathrooms in our houses.

Today, since we continue to be a small tribe, we have 126 housing units at our tribe. We have a very small reservation, I think about 500 acres immediately surrounding the old village. We have six counties, acreages here and there in our six counties.

Though HUD has been of immense help to our tribe, I believe there is still room for improvement and people from NCAI and the Millennial Housing Commission, that was a group formed by Congress, wanted to know some priority for all, well, not all tribes, but at least some Midwestern tribes, at least the MAST area.

So, with that, what I ask is that some of the NAHASDA reauthorizations, should continue to move forward. They should continue to furnish housing for our tribe, for our people in general throughout the country.

According to NCAI figures there are at least about 225,000 units still needed by our Indian people.

What we would like to see, and this is on your list here, as Indian people we would like to see the creation of a Federal task force to work on infrastructure. We have housing, but we still need roads, electricity, water, and sewer. Somehow those got cut out of the formulas a few years ago. At one time they were in. I don't know what has happened.

But we would like to see the creation of a Federal task force to work on the infrastructure needs for our Indian country. We would like to see a restructuring of the HUD 184 Program to make it more user friendly. By that, I believe it is extremely difficult for our people to go to the bank or mortgage company and get a loan.

Indian people in general are afraid of the paperwork, don't like excessive paperwork. A lot of them don't followup or follow through. So, if we could restructure the HUD 184 Program and make it more usable for our people. We would like to see: No. 3, a set aside for the Mortgage Revenue Bond Program.

No. 4, we would like to see Federal funds going to the Community Assistance Programs to create a 7th-program specifically to assist tribes with water and sewer.

No. 5, the continuation of the Rural Housing and Economic Development Program that was eliminated from the fiscal year 2000 HUD budget.

No. 6, the creation of an Indian housing representative position at each of the Federal agencies that are involved with banking, the FDIC, the Federal Reserve, the Federal Housing Finance Board, OCC, and Treasury.

Our tribe does support S. 132, introduced by Senator Johnson, which would amend the Internal Revenue Code of 1986 to provide that housing assistance provided under NAHASDA be treated for the purpose of low-income housing credit in the same manner as comparable assistance.

I want testimony to move on, so thank you for this opportunity. It is a great honor to be in this historic building.

[Prepared statement of Ms. Chambers appears in appendix.]

The CHAIRMAN. I thank you very much, Ms. Chambers.

Now may I recognize Mr. McClellan.

**STATEMENT OF THURLOW "SAM" MCCLELLAN, COUNCILOR,
GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDI-
ANS, PESHAWBESTOWN, MI**

Mr. MCCLELLAN. Good morning, Chairman Inouye and the other members that are working with you here. It is also an honor for me to be here and to represent our tribe, the Grand Traverse Band of Ottawa and Chippewa Indians.

I was here earlier, I think maybe within the last year with the veterans. You came out and spoke to us and saw us and met with us on the steps. I appreciate that. It shows the concerns that you have, not only for the veterans, but also being on this committee to seek out the issues and concerns that the Native Americans have in the different tribes that we have.

Today, I have the ICW. As you have seen in my statement, briefly, I had put in there information about my wife and I. We have been married for 28 years. She grew up in a lot of different homes. They didn't have ICW then, but they were foster homes. So, she experienced a lot of the problems and things that Native Americans do going into a non-Native home.

That is some of the background of why I am here. I am chairman of our ICW committee. We had a foster home for around 16 years with MICWA, the Michigan Indian Child Welfare Agency that used to be—I don't know if they are still there—but they were up in Sault Ste. Marie.

Because of the problems that my wife had gone through—I never was in a foster home; I grew up in a good home and we never had those problems or anything—but my heart was always with the children because of the problems that they faced.

Some of the issues that we have had in ICW, there was six different ones that I have mentioned in my statement and I just want to mention them again, the prevention services, intervention services, Child Protective Services, the monitoring of all cases in our six-county area, the licensing on the reservation of foster care, group and shelter homes, and also the adoption studies and investigative reports.

These are the main points that make up our ICW. That could use still a lot of help in these areas and strengthen the ICW Welfare Act.

Some of the things that are working on the tribes that we have found is the Tribal Social Service Programs that have gained the trust of tribal families and reportedly are viewed as supportive and empowering. This direct correlation between the increase of family services and education has decreased the number of serious abuse and neglect cases.

We are able to use the different traditional approaches such as the Talking Circle where the families meet with their support people. In this the family's strengths and weaknesses are discussed. At that time we identify what support services are needed.

Some of the concerns that we have within our group and as Senator Campbell mentioned, are that a lot of the grant programs, you know, we don't want to become reliant on this grant programs, but certainly they help us in our support services that we have.

The RAO, which is a revenue allocation ordinance, which, because of gaming, we are able to help our own tribes in the different housing, education and welfare programs that we have. Out of our RAO money, there is almost \$400,000 that, through our own tribe and gaming, that has helped our ICW services.

Then through the BIA we have around \$65,000. So, you can see that we are not relying on the different grants, but certainly the grants do help us in offsetting some of the cost of it.

I also stated in my statement about some of the problems that we have faced with the State. This is what the staff has identified, the States are not following placement preferences. They avoid following the ICW Act criteria for placement.

Services and funding for services are not following the children transferred back to the reservation. It seems like there is a void in that area.

Notices to tribes regarding relinquishments in voluntary proceedings seem to, you know, just never get to us, or sometimes they are help up.

Penalty and lack of compliances are not really looked at. Some of the judges and some of the court systems do not want to recognize our tribal court system,

In conclusion, we hope your committee can strengthen some of the ICW issues there. We certainly would welcome you to come and visit our tribe, visit our reservation so you can see firsthand a lot of things that are being done and because of gaming, too, that we have good programs. We are not wasting the money. Not all the tribes, though, are able to do the same things that we are because of gaming.

I appreciate the time that you have given us. I hope that you will accept the invitation and get together and we can see each other again.

The CHAIRMAN. Thank you very much, Mr. McClellan.

Now, may I call upon Council Member Camp.

**STATEMENT OF RUBY CAMP, COUNCIL MEMBER, LAC VIEUX
DESERT TRIBAL COUNCIL, WATERSMEET, MI**

Ms. CAMP. Good morning, Senator Inouye and members of the committee. I would like to reiterate what Honorable McClellan just stated about you as a supporter of people in Indian country. It doesn't go unnoticed by our Indian people.

My name is Wabanookwe. I am from the Lac Vieux Desert Nation in Watersmeet, MI in the Upper Peninsula. I was going to read to you what is in front of you, but I changed my mind because I need to tell you what is in my heart and I need to tell you what the elders would tell you in the way that they would tell you. They would state it simply, because they are a people of few words.

I am here to tell you about the situation of our elders, the people who gave us life, who showed us the road, the good red road, and helped us when we stumbled and taught us every important lesson. No matter what our age may be, we owe them our very existence, along with the brave persistence of our heritage that they have left to us.

These elders saw historical trauma through boarding schools as children and relocation as adults. Now they are facing critical issues as elders in our Indian communities.

My sister, Giwegiizshigookwe, works everyday with these elders and she has done so for the past 11 years. She has seen the effects of the major health concerns, of alcoholism, diabetes, cancer, and heart disease, to mention only a few of the diseases that are killing our elders.

Fifty-eight point 5 percent of our elders have an income far below the Federal poverty level. I am a benefit counselor with the Lac du Flambeau Tribe and I have elders come in to see me frequently who do not understand the basic benefits that are available to them.

So, they certainly do not understand when the Federal or State government sends them a letter to say that they will not be getting a check next month because they got a per capita payment last month from the tribe.

What can you do as legislators and leaders of this great country to remedy this problem? Why can't we help our elders who have been through such hard times as Indian people.

I come to you with a good heart and I ask of you some of the same questions Chief Joseph asked of your ancestors at Lincoln Hall here in Washington in 1879. He said:

I have heard talk and talk does not keep my people from dying. He said this as he argued passionately for the U.S. Government to live up to their promises.

I am here to ask you to waive the unearned income from the per capita payments so our elders will not be so far below the Federal poverty level. I ask you to honor the trust responsibility for their health care so that they may have support groups, in-home care and home visits when they are sick.

I ask you to provide funding for a National Indian Council on Aging so that we can deal effectively with Indian elders issues.

All of these unmet needs for our elders have a devastating effect on the quality of their lives, their independence and self-esteem.

Senators the elders have persevered much of a dark history. Please shed some light on whatever future remains for them before they journey home to the Creator.

Thank you for this opportunity to present this testimony.

[Prepared statement of Ms. Camp appears in appendix.]

The CHAIRMAN. I thank you very much, Council Member.

May I now call upon Council Member Christensen.

STATEMENT OF MIKE CHRISTENSEN, COUNCIL MEMBER, LAC DU FLAMBEAU TRIBAL COUNCIL, LAC DU FLAMBEAU, WI

Mr. CHRISTENSEN. Senator Inouye, I will deviate from my prepared statement here and get to the heart of the matter. This land in trust issue is a very touchy situation.

My tribe and other tribes, and I have sat on the TEA-21 Committee for 14 months and we are all facing the same problem. We have fractionated land interests. Some of our land is part taxable, part trust. If we want to include that in to make it all trust land, we have problems doing it.

Some tribes have a problem of putting a road through their reservation because it is taxable land, fee land. We are trying to acquire that land so we can get back our own land base. For my tribe and other tribes, historic reasons, burial reasons, we want to protect it.

We do have economic development involved in there. Like our tribe right now, we are trying to put our land into trust for a cranberry marsh. Part of it is on the reservation and part of it is off the reservation.

We applied to the Bureau and we ran into roadblocks. That is going back to 1989, so the Bureau, in my opinion, is not doing their job as a trust responsibility to the tribes. We have a backlog of reservations that are the same way. We need to clear up the backlog before we even look at going further.

The Bureau has been dragging its feet for a number of years. There seems to be no way to prod the Bureau ahead to help us out. So, I am urging the committee here to look into what the Bureau is not doing as a trust responsibility to the tribes.

It does harm our tribes as it applies to economic development. I can speak for my tribe. It is harming us, the economic development. We have a factory there that we produce electronic meters for the Navy or Army, whoever buys them from us.

But we are strapped and we cannot expand it. The facility is outdated. It has been there for 57 years. Now the machines are outdated. It would cost us more to move the machine than it is worth. If we had the land acquired, we could possibly use it as financing and build our factory back up to a new standard.

It is not only gaming. I hear gaming thrown around. But we are not interested in putting our land into trust for gaming. There are other reasons. There are future generations I am looking at. I have grandchildren that I am sure are going to live there like I did. So, it is more of an emotional thing than it is really a monetary issue with me. I am speaking strictly for myself at this point on the land issue.

We need an effective way to purchase the fee lands and have them put into trust. We try with our limited gaming dollars. We

try with our limited money we get from our factory that we have there. But that is not enough because the price of the land goes up constantly, since all the non-Indians own right now all the shore land around us. That is almost impossible for us to buy it back at \$2,000 a square foot.

So, we are asking the committee here if the Bureau could increase their budget to at least give us that much help. We are not asking for much this time. Maybe next time we will ask for more. But I would like the committee to look into that end of it.

[Prepared statement of Mr. Christensen appears in appendix.]

The CHAIRMAN. I thank you very much Council Member.

If I may now, I will begin asking questions. Ms. Chambers, you have made various suggestions on how to improve housing services in Indian country such as developing an Indian task force and such.

Are you willing to provide the committee with specifics on your proposals? It would be extremely helpful.

Ms. CHAMBERS. Yes; I don't have them with me, but I can get them to you.

The CHAIRMAN. If you will submit that to the committee, I would appreciate it.

Mr. McClellan, I am not certain if you are aware that Senator Daschle and I introduced a measure which would authorize tribal governments to have direct access to Title IV Programs for foster care and adoption services rather than having to enter into agreements with States to receive funding.

It is estimated that \$225 million would be made available to tribal governments under this bill over the next five years. Are you aware of this measure?

Mr. MCCLELLAN. No; I am not aware of it. But it certainly is good news to hear.

The CHAIRMAN. May I suggest that you study this measure and give us your assessment of it?

Mr. MCCLELLAN. I certainly can do that. Thank you.

The CHAIRMAN. The main feature is that you will have direct access to the funds instead of going through the State.

Mr. MCCLELLAN. That has been a big problem for us.

The CHAIRMAN. If you go through the State you have too many layers of bureaucracy.

Now, you spoke of the Indian Child Welfare Act. Do you have any suggestions or recommendations how we can have better compliance to the laws?

Mr. MCCLELLAN. Excuse me?

The CHAIRMAN. The Indian Child Welfare Act.

Mr. MCCLELLAN. The act itself, you know, a lot of the problem of being a foster parent, there are so many different regulations that we had to follow through the State, we don't have that many Native Americans with foster care licenses. That was one of the reasons that I mentioned of looking at the rules and trying to help us so that we can really have a better relationship with the State and the Federal in working with this ICW Act.

You know, if there is other information that we can give your committee, we will certainly look into it. I will get with the staff and the committee and provide you with more materials. This was

just a brief that I gave you, but we can give you more detail to help you about the problems that we face on our reservation.

The CHAIRMAN. What is your major concern, lack of funding or lack of concern by State authorities?

Mr. McCLELLAN. Well, it appears to us that it is the lack of recognizing that we can govern our own tribe and we can help our own people. What we have found is not recognizing our own tribal government and our own ICW staff in being able to handle the problems and things that we face on our reservation and in our six-county area service.

That has been a major one. We have made ground in this area by going to the different court systems and informing them of how this works. But even after years of doing this, we still come up with last minute notification before some of our native kids are adopted that, "Hey, we have a Native American here." Sometimes we don't find out until afterwards that they are adopted because we were never notified.

That has always been a continued problem among the courts. I still feel the courts do know, it is just that they don't want to recognize that we are a government, we are a tribe and we do know how to handle the situations and things in our own community.

We can make decisions, too, but it has just been a very big problem in our area.

The CHAIRMAN. Council Member Camp, I agree with you on having health care as an entitlement because I have long maintained that Indians have made the necessary down payment. You have already paid for your premiums. You have given your land. You have given your people and made many sacrifices. So, I am with you.

Have you discussed this matter of your elders with the National Indian Council on Aging?

Ms. CAMP. My sister is more of an authority on this subject than I am because she works with Indian elders every day. I can get that answer for you from her and put that in writing to you very soon. But I really don't know.

The CHAIRMAN. I think it might be helpful because this council has some expertise on how to deal with problems of elders. But we will try our best. I think that is the least we owe our elders.

If I may now call upon Mr. Christensen, do you believe that Congress should provide a statutory framework for taking land into trust?

Mr. McCLELLAN. I certainly do believe that. I think the 120-day waiting period is quite extensive because right now we are paying property taxes on land that we have purchased years back.

Also, I sit on the town board government there, so I sit on two different governments. It is not really harmful to the town government that we buy the forestland back, which we are trying to get right now. The town government is aware of it. They go along with it.

If Congress would appropriate more money for the bureau, it would help us with our allotted land fee and getting some of that land back that would strengthen our government again. I think the 120 days is quite a long time. When you count the number of Indian tribes you have within this country, we are only a fraction of what the population is. Then to ignore us for 6, 9, 10 years at a

time, it is a slap in the face to us. I think the timeframe should be shortened, speeded up a little bit.

The CHAIRMAN. I would like to thank the panel. But before I do, I have been on this committee now for over two decades and during that time, I must confess to you that I have become disillusioned and ashamed of the way that Americans have related to Indians, the lack of sensitivity, the lack of concern.

I have been thoroughly angered by the way we have completely ignored treaty obligations. That is why I try my best in a small way to undo the damage that we have already incurred upon Indian country.

Unfortunately, this may become a long process. But I can assure you that I will stick to it as long as I can.

To all of you, once again, I thank you for your participation.

If I may, I would like to call the last panel. Alfred Trepania, president, Inter-Tribal Council, Lac du Flambeau, and Aaron Schlehuber, tribal attorney, Sault Ste. Marie Tribe of Chippewa Indians.

May I now call upon President Trepania.

STATEMENT OF ALFRED TREPANIA, PRESIDENT, GREAT LAKES INTER-TRIBAL COUNCIL, INC., LAC DU FLAMBEAU, WI.

Mr. TREPANIA. Thank you. Thank you for the opportunity to present this statement. My name is Alfred Trepania. I am the president of the Great Lakes Inter-Tribal Council from the State of Wisconsin.

For the tribal nations represented by the Great Lakes Inter-Tribal Council, education remains our strongest hope for strengthening our capacities to address the serious issues, which our communities must face. For our tribes, education also remains our strongest hope for sustaining our values, languages, traditional knowledge and our understanding of the place of humans in the natural world.

Many of our educational institutions, tribal schools, charter schools, and tribal colleges are working to prepare for our future by building on our rich culture and our intellectual inheritance. This approach is gradually yielding some successes:

Over time, the success rates of Indian students, students attending tribal schools are increasing.

Students who have dropped out are returning in increasing numbers to obtain their high school equivalency diplomas.

During their years in schools, more and more Indian students are becoming computer-literate, participating in science fairs, and enjoying courses in field biology and other natural sciences. These successes in turn are helping our communities to prepare for the next set of challenges we must address.

Our tribal economies depend to a great extent on tourism and the careful management of natural resources. Our daily lives depend on good transportation linkages, safe drinking water, and on dependable supplies of drinking water, and on dependable supplies of fuels and electrical power. Many of our tribal members rely on fish and wild game for significant parts of their diet.

But the balances of nature in the Great Lakes region are shifting, in some cases dramatically. These changes, in turn, affect our

economies and our daily lives. Declines in the water level of Lake Superior affect pollution levels and access to transportation.

Declines in annual snowfall affect winter recreation. Alter the water table, and may soon affect fish and wildlife populations. Increasing temperatures affect our forests and agriculture, open our natural environments to invasions of new species, and may begin to affect the health of our elders and other vulnerable groups.

The increasing frequency of intense storms, wide swings in temperature and other dramatic weather events affect our community infrastructure—water supplies, roads, sewage treatment facilities and electrical power.

Education is one way in which our communities are preparing to address these issues created by these changes. Tribal colleges in the Great Lakes region are building strong programs in the biological sciences, forestry, and natural resource management.

The College of the Menominee Nation offers a degree program in forestry, which is based on the detailed knowledge of local environments which the Menominee Nation has acquired through numerous years of successful forest management in the same location. This knowledge and the values on which this success is based are combined with contemporary scientific analyses and management approaches. This combination of traditional knowledge and values with contemporary success strengthens the Menominee Nation's abilities to adapt successfully to the rapid environmental and economic changes.

Lac Courte Oreilles Ojibwa Community College has developed a strong educational program which uses contemporary geographic information systems technology to assist the tribes in mapping and analyzing reservation resources in close detail. This same technology has contributed to the development of a successfully rural transportation system which serves the entire tribal community and also the county.

The tribal colleges in the Great Lakes region contribute to their communities in other ways as well. Tribal college faculty serves as judges for local science fairs. Students from local high schools take tribal college courses even as they are still completing their high school years.

Summer programs offer special training for younger students, and likewise give them a chance to participate in live on a tribal college campus. Tribal college faculty and staff frequently provide technical assistance to agencies and programs of tribal governments.

The libraries of tribal colleges are frequently the only libraries available to most reservation residents. And a recent study by the American Indian Higher Education Consortium indicates that tribal communities with tribal colleges have higher work-force participation rates than comparable tribal communities that lack their own colleges.

With all of these success stories, however, we still have a long way to go. Tribal schools need to slow down the turnover rates for faculty and administrators. The schools need qualified science teachers, and teachers who understand and communicate the values of the tribal communities they serve.

The urgent needs for large numbers of Native teachers have still not been addressed. The tribal schools need resources for science labs and library resources. The schools need resources to offer innovative programs after schools and in summer to reinforce the astonishing talents and gifts of their students.

Tribal colleges likewise need assistance. Education and research programs in the natural and environmental sciences are expensive. They require faculty with appropriate degrees and qualifications, libraries with access to appropriate journals and reference materials and laboratories and field sites with appropriate equipment.

Yet, tribal colleges continue to receive basic operating funds from the Federal Government at the rate of less than half the dollars, per student, that States provide to their own 2-year colleges and much less than the amounts provided to 4-year institutions.

Education is important to our tribes. Our students are eager to succeed. We request, therefore, that you examine both our successes and our needs. We request that you provide us with the support we require to continue to develop educational institutions of the depth and quality, which our communities need and our students deserve.

We, like you, intend to leave no child behind and we expect and intend to leave no adult or tribal community behind. We have already accomplished much. We request your help in doing much more.

The CHAIRMAN. I thank you very much, sir.

May I now call upon Mr. Schlehuber.

STATEMENT OF AARON SCHLEHUBER, ESQUIRE, TRIBAL ATTORNEY, SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS, SAULT STE. MARIE, MI

Mr. SCHLEHUBER. Mr. Chairman and distinguished members of the committee: My name is Aaron Schlehuber, an attorney for and member of the Sault Ste. Marie Tribe of Chippewa Indians. The Sault Tribe, for itself and on behalf of other MAST, wants to share with you some concerns in the area of natural resources.

Many MAST, including the Sault Tribe, are located on the shores of one of the most precious natural resources on the planet, that being the Great Lakes, which hold about 20 percent of our fresh water.

Many MAST, like us, have a unique interest in this resource because we possess certain treaty fishing rights in various portions of the Great Lakes. These rights have been recognized and exercised for many years. They remain a important source of livelihood and subsistence for our tribal members, as well as a connection to the wellspring of our traditional culture.

Last year the treaty tribes of Michigan concluded a 20-year agreement with the State and Federal Government on the exercise of treaty fishing rights and on fisheries management on the Great Lakes.

Today, however, this careful balance of interests is threatened by environmental impingements on the fishery. The fishery resource is imperiled on a number of fronts: Threatened water diversion, lateral drilling, polluted sediment, tainted fish, continuing point source pollution, just to name a few.

Some of these issues are addressed in the written materials provided with the statement. But today, in the short time allotted, we want to flag one crucial problem, one created by the Federal Government that the Federal Government up to now has done little to help solve: The introduction of exotic species or non-indigenous, non-native species.

The St. Lawrence Seaway was undoubtedly an economic boon to the Great Lakes basin. But it opened up an avenue for the invasion of many exotic species. A Great Lakes Fishery Commission study shows that at least 136 exotic species have invaded the Great Lakes and that 10 percent of these species have had a very serious impact.

A primary vector for the introduction of exotic species is the ballast water of "salties." A saltie is an ocean-going vessel plying the Great Lakes. Foreign species are picked up for the ride when these ships take in ballast water and are dropped off in the Great Lakes when the ballast water is discharged.

Ballast water has been the culprit in introducing a number of exotics. The most recent example is the Zebra Mussel, which is rapidly changing the ecology by coating the lake bottom, disrupting the food web, displacing native species, and filtering out nutrients upon which other species depend.

Zebra Mussels have been implicated in a disturbing recent development, the rapid decline and in some area the total disappearance of *Diporeia* for Lakes Michigan and Huron. This small bottom-dwelling organism was an abundant and essential food for whitefish and other many other major species, a key link in the food chain. Its decline threatens to produce a sharp decline in the fishery and perhaps even an ecological disaster.

The Federal response to the ballast discharge problem to date has been at best delay and temporizing. The EPA continues to ignore its responsibility to regulate ballast water discharge. After a decade of study, the Coast Guard has only recently published for comment a statement of suggested approaches to setting ballast water standards. That is a long march from actual regulation. This, despite the fact that Congress mandated regulations several years ago in the National Invasive Species Act. It appears that the powerful shipping industry has thus far succeeded in thwarting any meaningful regulation of ballast discharge.

Congress must step in and deal forcefully with this issue. Fortunately, within the last several weeks there has been some bipartisan movement on the issue. Representative Hoekstra has introduced H.R. 1680, and Senator Stabenow has introduced S. 1034, I think just last week.

These twinned bills have each garnered 12 cosponsors, including Senator Wellstone of this committee. The bills require the implementation of Coast Guard regulations which would assure that vessels entering the Great Lakes do not discharge ballast water that introduces or spreads nonindigenous aquatic species and that ballast water and its sediments be treated by the most effective techniques now available and to be developed in the future.

We urge the members of this committee to support that legislation.

Congress must do more, however. It should require the EPA accept its responsibility to prevent future introductions of exotics and it must support a program to develop and implement remediation to remove or diminish the effects of exotics like Zebra mussels that are already ensconced in the Great Lakes.

Ask yourselves this question: If there were an oil or chemical spill in the Great Lakes today that caused even a fraction of the harm that has been caused by these exotics, what would Congress do? How would Congress react?

In the treaties of 1836, 1842, and 1854, the Federal Government promised various tribes that their right to commercial and subsistence fishing in the Great Lakes would continue. A century later, today, the Federal Government opened a broad avenue for invasion of the Great Lakes by harmful exotic species, and that invasion threatens the fishing rights secured by treaty.

The Federal Government has a clear responsibility to end the threat and clean up the damage done. This is a duty owed to the treaty tribes, not to mention the citizens of the Great Lakes basin as a whole.

Thank you.

The CHAIRMAN. Thank you very much.

President Trepania, at this moment there are several legislators, together with leaders of Indian country who are considering the establishment of an American Indian University.

Do you have any thoughts about this?

Mr. TREPANIA. No, I haven't; actually, my tribal chairman who is Gaiashkabosh, is the liaison to education of the Lac du Flambeau Tribe. I am the tribal member on the council of the Lac du Flambeau Tribe. My different positions are all different than education. But I came out here to do testimony on education.

The CHAIRMAN. Well, I ask that question because about 10 years ago we did some investigation. I don't have the current numbers, but it is presently estimated that Howard University, which was established and chartered by the Congress of the United States for African-American descendants of slaves, we appropriate in excess of \$15,000 per student per year.

At the same time, Congress established assistance to tribal colleges and we provide support of less than \$3,000 per student per year. That is a wide disparity.

Howard University, incidentally, has a medical school, a law school, a dental school, a School of Social Welfare, and many other graduate courses.

That is why many of us felt that maybe the time had come for the establishment of some major Indian university that would concern itself with Indian problems. You can go to law school, but they don't necessarily teach you Indian law. You can go to medical school, but a medical school may not be concerned with some of the health problems that are so prevalent in Indian country or that Indian elders have, such as diabetes where over 50 percent of those above 50 are likely to have diabetes.

So, would you have your council look it over and give us an assessment of what you think about a university?

Mr. TREPANIA. I will do that. Do you want us to send some material to you?

The CHAIRMAN. Yes; I would appreciate that.

Mr. TREPANIA. Sure, I will do that.

The CHAIRMAN. Mr. Tribal Attorney, you have mentioned a measure that Ms. Stabenow introduced and I am happy to say that I am a cosponsor of that. That affects the Coast Guard. Do you think that we should have a measure that would call upon EPA to do likewise?

Mr. SCHLEHUBER. Well, beyond the regulation in S. 1034, the EPA has a duty to address this problem to begin with. The fact that they have not done it has caused people to seek other avenues, by means of S. 1034.

But, of course, EPA has a duty to address this issue. We would like to see them do that. There is litigation taking place on the West Coast. The EPA is currently being sued along these same lines. That suit may result in this particular issue being addressed. That may be years down the road.

The CHAIRMAN. You have called upon the EPA to provide such services?

Mr. SCHLEHUBER. There is an organization called DCORA that is a collection of the various tribes in Northeastern Michigan. I believe that entity has in the past contacted EPA for information to see what was being done. I couldn't tell you the current status of that.

The CHAIRMAN. I can appreciate what exotic species can do to plant life and animal life. Hawaii, as you may know, is the land of many of these endangered species. We have more endangered species in one State than the whole United States combined. But we are always constantly concerned about exotic species.

The most recent on is a snake. We don't have snakes in Hawaii, as you may know. But somehow, the Brown Tree Snake was introduced to Hawaii. That snake, incidentally, has wiped out seven species of birds on the Island of Guam. We are concerned it might do the same in Hawaii.

So, I can understand your concern about exotic species coming into your area.

Once again, I would like to thank both of you for joining us this morning. I would like to invite all of you to join us at 2 o'clock today in this room for a discussion on a possible statutory framework for the taking of land into trust.

I am certain those of you who have studied the record of Congress will know that this year like last year and the year before several measures have been introduced by various members of Congress that would put obstacles in the way of taking land into trust.

So, we would like to come forth with some positive responses to such bills by coming out with some positive legislation on taking land into trust, to better enforce that agreement that we have with Indian country.

So, for those of you who are interested, please join us. The senior staff members will be here. Hopefully, from these discussions, we will come forth with legislation that will help all of you.

With that, I would like to thank all of you.

We will stand in recess until our next meeting.

[Whereupon at 12:20 p.m., the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF GERALD DANFORTH, CHAIRMAN, ONEIDA TRIBE OF WISCONSIN

Good Morning Chairman Inouye, I am Gerald Danforth, Chairman of the Oneida Tribe of Wisconsin. I would like to comment on three areas: Amendments to the Indian Gaming Regulatory Act that tribes believe are necessary; the oversight hearings tribes would like this committee to consider holding during the 107th Congress; and the economic impact Indian gaming has had on the MAST member tribes.

Earlier this year, you along with Senator Campbell introduced S. 832, the Indian Gaming Regulatory Improvement Act of 2001. Several of the provisions included in this bill have been the topics of discussion for several years by both tribes and tribal regulators and come as very welcome news to Indian country. Specifically, we believe the bill is helpful in the following ways:

No. 1. Provides that class 11 games using electronic, computer, or other technologic aids are not to be defined as Gambling Devices under the Johnson Act. This provision will bring IGRA into conformance with several recent court decisions holding that many of the technological aids used by tribes to assist in the play of bingo and pull-tabs do not violate the Johnson Act.

No. 2. Requires tribal gaming commissioners and commission employees to become subject to background checks, such as those conducted on primary management officials and key employees. This provision closes a gap in current law and is welcome.

No. 3. Requires the National Indian Gaming Commission to levy fees against tribal operations that are reasonably related to the duties of and services provided by the Commission to tribes, and in certain instances, to reduce the level of fees payable by those operations. The Oneida Tribe contributes over \$9 million annually to the regulatory aspects of our gaming operation. In an effort to make certain tribes able to use funds generated by our casinos to directly meet the needs of our communities, costs associated with unnecessary regulatory overlap must be minimized.

No. 4. Directs the NIGC to commence a process of negotiated rulemaking to promulgate regulations relating to the monitoring and regulation of tribal gaming, the establishment and regulation of internal control systems, and the conduct of background investigations. Such regulations must be published in proposed form within 1-year of passage of this bill, and in a change from S. 2920 in the 106th Congress, S. 832 would sunset the NIGC's minimum internal control standards 1 year after the passage of the bill.

Although this bill addresses several of the concerns raised by tribes over the years, it does not provide for an alternative compacting process as tribes have requested since the Supreme Court's decision in Seminole. Additionally, we believe IGRA should be amended to more clearly and forcefully prohibit the ability of states to demand financial compensation from tribes as a condition before entering into or extending class III compact agreements. In the recent past, the Bureau of Indian Affairs has been far too willing to approve such provisions under the guise that

tribes are receiving "exclusivity" in the gaming market. These areas must be addressed.

We believe this committee should hold hearings on the following issues:

Authority of the NIGC—over the past few years the NIGC has been engaged in an aggressive effort to expand its jurisdiction. They have promulgated regulations extending their regulatory authority over class III gaming—an area where tribes and States have already developed regulatory agreements under tribal/State compacts. The NIGC is also nearing the completion of health and safety regulations wherein the tribes and the Commission would exercise concurrent regulatory authority to insure tribal gaming facilities are constructed, maintained and operated in a manner which protects the environment, public health and safety.

Although tribes strongly believe and continue to demonstrate that gaming must be stringently regulated and conducted in a safe environment, we believe the NIGC has extended itself beyond the scope of authority provided under current law. Tribes are the primary regulators of their gaming establishments, with the Commission and the States taking on their respective roles as mandated under IGRA. The NIGC should not be allowed to simply develop regulations that recreate the wheel to enhance their own authority. Congress must be vigilant to make certain these boundaries are maintained in order to protect the integrity of the act.

We also would like the committee to hold oversight hearings on the staffing of the NIGC. The NIGC has received a significant increase in funding from tribes over the past few years, and Congress should have the opportunity to fully understand how that money is being spent. Again, tribes are not attempting to suggest that we don't want to be regulated, but rather that the reach of government is kept in check with the authority conveyed under the law.

Of the 36 MAST, 33 are gaming tribes. The intention of Indian gaming is to help tribes and Indian people grow stronger and more self-sufficient. Indian gaming is helping many tribes, like ours, rebuild their reservation communities, and it also bringing significant economic benefits to non-Indians.

Nationwide, Indian gaming provides more than 200,000 jobs, many of which are held by non-Indians. The Oneida Tribe is one of the largest employers in the Brown County, WI. Overall, we have 3,100 employees. Of these, 1,500 are in our gaming division—40 percent are Oneida, 9 percent are from other tribes, and 51 percent are non-Indian. The benefits that gaming brings to non-Indians, don't stop at employment; MAST gaming tribes are creating economic growth in many ways. There is less welfare in areas with Indian gaming facilities, more tax income from employee wages to the state and local governments, growth in spin-off businesses near casinos, and vendors and other suppliers have grown their businesses to meet the needs of Indian gaming facilities. The projected impact from gaming estimated at around \$12 billion.

For Oneida, and other MAST tribes, gaming also brings many benefits to our own communities and tribal members. In Oneida, gaming has provided us with the opportunity to build a new Police department, housing for our elders, a school, a day care facility, and we are currently in the process of building a new health clinic, among other things.

Mr. Chairman, this is only the beginning. The list of benefits Indian gaming has brought to our communities could go on indefinitely.

I would like to thank you for inviting us here today and look forward to working with you on our legislative priorities for the 107th Congress.

PREPARED STATEMENT OF GERALD V. CHINGWA, CHAIRMAN, LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS

My name is Gerald V. Chingwa. I am the chairman of the Little Traverse Bay Bands of Odawa Indians, with Tribal Headquarters located in Petoskey, MI.

As the Great Lakes are absolutely critical to our tribe, we appreciate your efforts to protect them from degradation and diversion. From pre-European contact through the present, the members of the Little Traverse Bay Bands of Odawa Indians [hereafter LTBB or tribe] have relied on the Great Lakes for our subsistence and commercial livelihood and transportation.

Given the importance of the Great Lakes to our way of life, we are gravely concerned that the compromise being considered between the State of Michigan and the United States regarding removal of water from the Great Lakes omits LTBB from the parties that determine the fate of these sacred waters. This compromise is referenced in the Traverse City Record Eagle on June 30, 2000. On June 27, 1999, our tribe enacted its own Great Lakes Protection Statute [Waganakising Odawa Statute

1999010]. Our overriding interest is stated in the preamble to that statute which reads:

The bands that make up the Little Traverse Bay Bands of Odawa Indians [LTBB or tribe] historically resided in the Great Lakes Region in harmony with the natural environment since well before the arrival of Europeans. The Great Lakes, especially Lakes Michigan, Huron, and Superior, have provided the tribe with food, water, and transportation for hundreds of years. The central mission of the tribal government stated in the tribe's constitution is "to provide for the perpetuation of our way of life and the welfare and prosperity of our people, to preserve the right of self government, and to protect our property and resources." Preserving the environmental quality of the Great Lakes and their resources for the present and future generations is absolutely essential to the tribe. This statute is enacted to help protect and preserve the Great Lakes ecosystem.

As stated in section IV of that same tribal statute, any degradation or destruction of the Great Lakes violates our treaty rights, the "supreme law of the land," and therefore violates Federal law:

Under article VI of the U.S. Constitution, "all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." LTBB was a party to numerous treaties with the United States including the 1836 Treaty of Washington, 7 Stat. 491, in which the tribe reserved the right to utilize Great Lakes resources for subsistence and commercial purposes. Federal courts have upheld the continued vitality of this treaty right. Degradation and destruction of the Great Lakes ecosystem constitutes an unauthorized limitation or negation of this treaty right. Any such degradation or destruction therefore violates the "supreme law of the land." Any drilling, sale or diversion which has the potential for impacting the waters of Lakes Michigan, Superior, or Huron ceded by the 1836 Treaty of Washington would violate Federal law and tribal law, and LTBB will take any appropriate and necessary action to prevent such activity including seeking Federal prosecution therefore.

LTBB's sovereign status, its critical interest in preservation of the Great Lakes, and the fact that any action that negatively impacts the Great Lakes violates the 1836 Treaty, which is part of the "supreme law of the land," make it imperative that LTBB be a part of any decisionmaking process that could result in loss of Great Lakes waters.

LTBB has submitted its concerns regarding this issue to all Michigan members of the House and Senate and submits with this testimony: Little Traverse Bay Bands of Odawa Indians, Waganakising Odawak Statute 1999010, Protection of Great Lakes; Resolutions from the Michigan Council of The People of The Three Fires, Resolution No. 00-8, Preventing the Diversion of Water From the Great Lakes and Resolution 00-1, Protection of the Great Lakes; Resolution from the Midwest Alliance of Sovereign Tribes, Resolution No. ***** Title. Finally, the Little Traverse Bay Bands of Odawa Indians with four other federally recognized Michigan tribes, each signatories to the 1836 Treaty of Washington and intervening plaintiffs with the *United States of America v. State of Michigan et al*, engaged in extensive mediated negotiations to resolve differences concerning allocation, management, and regulation of fishing in 1836 Treaty waters. The negotiations resulted in a Consent Decree and related documents detailing how fishing in 1836 Treaty waters will be allocated, managed, and regulated by the parties for the next twenty years. The Decree sets forth provisions to address Federal, State and tribal management and allocation concerns. "1836 Treaty waters" mean all waters of Lake Michigan, Lake Huron, Lake Superior, and connecting waters, which are within the area ceded in Article First of the Treaty of March 28, 1836, 7 Stat. 491.

This concludes my testimony at this time and I thank you for your attention and concern to this great issue facing our great states and nations. June 14, 2001.

PREPARED STATEMENT OF ARDITH DODIE CHAMBERS, TREASURER, GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS, PESHABESTOWN, MI

I am Ardith Dodie Chambers, the treasurer of the Grand Traverse Band of Ottawa and Chippewa Indians of Peshabestown, MI. I have served our tribe all of my adult life. In 1978, I and a group from our community carried the petition for Federal recognition to Washington, DC. On May 27, 1980, the Grand Traverse Band of Ottawa and Chippewa Indians became the first tribe in the United States to successfully petition for Federal recognition. Shortly, thereafter, I became our first trib-

al chairwoman. I am a descendant of Chief Peshaba, who founded the village of Peshabestown in 1852, along with a group of Ottawas.

The Grand Traverse Band consists of 3,682 members. One-half of our members live in our six county service area.

Today I will speak of our housing needs and what we hope to see happen in this legislative session.

Our tribal housing department currently has 126 dwellings under management. The composition and funding source for these units is as follows:

No. 1, 29 market rental units acquired by the tribe with Revenue Allocation Ordinance "RAO" [tribal] funds for the benefit of the membership. The total capital investment exceeds \$2.5 million.

No. 2, 56 low rent units financed with HUD 1937 Act dollars.

No. 3, 16 unit low rent facility [Elders Building] financed with HUD 1937 Act dollars.

No. 4, 6 home ownership dwellings financed with NAHASDA dollars and modeled after the 1937 Act Mutual Help Program.

In addition, the Housing Department is currently building 6 duplex units that will be completed in the summer of 2001. Once completed, the HA will fund the project with NAHASDA dollars.

During the Spring of 2001, the Housing Department was successful with two Rural Rental Housing 515 Applications, which will provide approximately \$900,000 in deep subsidy financing for 11 duplex units. The tribe will be contributing an estimated \$850,000 to the project. The current waiting list supports the need for more than 100 new dwelling. Some of our elders are living in adult foster care homes separated from their own people because we do not have housing for them. Others are in long-term care facilities because they do not have the necessary tribal housing. The tribe is embracing Self-Determination, but is consistently underfunded through HUD appropriations under NAHASDA.

NAHASDA Reauthorization should move forward keeping in mind the huge unmet need for 225,000 units in Indian country. [NCAI]

We would like to see:

No. 1, the creation of a Federal task force to work on infrastructure needs for Indian country.

No. 2, a restructuring of the HUD 184 program to make it more user-friendly.

No. 3, a set-aside for the Mortgage Revenue Bond Program.

No. 4, Federal funds going to Rural Community Assistance Program to create a seventh-program specifically to assist tribes with water and sewer programs.

No. 5, the continuation of the rural Housing and Economic Development Program eliminated from the fiscal year 2002 HUD Budget.

No. 6, the creation of an Indian Housing representative position at each of the Federal Agencies that are involved with banking: FDIC, Federal Reserve, Federal Housing Finance board, OCC, Treasury.

We support S. 132 introduced by Senator Johnson [D-SD] which would amend the Internal Revenue Code of 1986 to provide that housing assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 be treated for purposes of the low-income housing credit in the same manner as comparable assistance.

Thank you for the opportunity to comment on our tribal housing concerns.

PREPARED STATEMENT OF SAM MCCLELLAN, TRIBAL COUNCIL MEMBER, GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS

I am Sam McClellan, tribal council member from the Grand Traverse Band of Ottawa and Chippewa Indians. I am chair of our tribal ICW committee. My wife and I were foster parents for 16 years. We adopted two of these children. My wife was in foster care. We became foster parents because we wanted to provide a Native American home for Native American children.

Our tribe consists of 3,684 members. Approximately one-half of our tribe lives in our six-county service area in Northern Michigan.

I wish to address some needed changes in the Indian Child Welfare Act. But first, let me describe our ICW program.

Our tribal ICW program has six functions:

No. 1. Prevention service, provided by ICW Family Services caseworkers to families on a voluntary basis, where there is an identified potential for abuse or neglect of children.

No. 2. Intervention service, by ICW Family Services caseworkers, when a substantiated report of abuse or neglect occurs within the six-county service area resulting in Tribal or State court involvement.

No. 3. Child Protective Service Investigations on tribal lands, of any reported incident of suspected abuse or neglect of a child less than 18 years of age.

No. 4. Monitoring of all cases outside of the six-county service area involving GTB children placed outside of their parental home, due to substantiated child abuse and or neglect charges.

No. 5. Licensing on the reservation of foster care, group or shelter homes.

No. 6. Adoption studies and investigative reports to the Indian Child Welfare Committee on all potential adoptions regarding GTB members.

From October 2000 through June 13, 2001, we served 813 persons of whom 460 were children.

Tribal social service programs have gained the trust of tribal families and reportedly are viewed as supportive and empowering, as opposed to State social service programs that are often seen as threatening and intimidating. Families seek services when in crisis and are receptive to assistance. There is a direct correlation between the increase in tribal services and a decrease in the number of serious abuse or neglect cases. In over 2 years, no child has had to be placed in a non-native foster home within the six-county service area. The few cases that required temporary removal were handled on the reservation by relative placement or tribal foster homes.

We are able to use traditional approaches such as the Talking Circle where the family meets with their support people. Over a meal, the family's strengths and weaknesses are discussed. We identify who can assist in helping with youth at risk.

Funding for the ICW program comes primarily from Revenue Allocation Ordinance [RAO] [tribal] dollars. The 2001 RAO budget request amount was \$383,804.

BIA funding total for 2001 was \$65,000. Grant funding has been pursued but so far, no money has been awarded.

The States are not following placement preference as stated in the Indian Child Welfare Act. They use the "Good Cause" clause to avoid following ICWA criteria for placement.

The services and funding for services are not following the children transferred back to the reservation for placement.

There is frequently no notice to tribes regarding relinquishments in voluntary proceedings.

There is no penalty to the state agencies for lack of compliance with ICWA specifications.

Frequently the judges are uninformed about the ICWA. Some courts don't want to recognize the ICWA.

We hope that any ICWA amendments will address these concerns and help to fund some of these tribal services.

Thank you for the opportunity to address you.

**STATEMENT of ROBERT CHICKS
PRESIDENT of the STOCKBRIDGE-MUNSEE COMMUNITY
10:00 A.M. June 19, 2001
Senate Select Committee on Indian Affairs**

Good morning. My name is Robert Chicks and I am the President of the Stockbridge-Munsee Community Band of Mohican Indians. The Stockbridge-Munsee Tribe is located in northeastern Wisconsin. I am also the co-chairman of the National Tribal Leaders Task Force on Land Recovery and I am Secretary for the Midwest Alliance of Sovereign Tribes.

I am here today to provide testimony on an issue critical to Indian country: the taking of land into trust by the United States for the benefit of Indian tribes and Indian people. After a brief introduction, I will address the following points: 1) A brief history of why the United States takes land into trust for Tribes; 2) Why the fulfillment of the Indian Reorganization Act must continue; 3) Why the proposed revised administrative regulations for taking land into trust should be permitted to go into effect; 4) A brief history of land loss on the Stockbridge-Munsee Reservation.

INTRODUCTION

Under section 5 of the Indian Reorganization Act, the Secretary of Interior may take land into trust for the benefit of Indian tribes and individuals. As you are all likely aware, on April 12, 1999, the Bureau of Indian Affairs embarked on a process to revise the regulations governing land-to-trust transactions, found at 25 CFR Part 151. That process became a lengthy one and continues today. The final rule describing the revised regulations was not published until January 16, 2001. After the presidential election, the Bush Administration delayed the effective date of the proposed regulations to April 16, 2001. On April 16, 2001, the Administration again delayed the effective date to August 13, 2001, and sought comments on whether the final rule should be amended in whole or in part or withdrawn in whole or in part. Those comments were due June 15, 2001.

Although many Tribes, including the Stockbridge-Munsee Tribe, criticized the proposed regulations when first issued, the Tribes now realize that the process of revising the regulations has resulted in a final rule that, while less than ideal, essentially preserves the intent of the Indian Reorganization Act ("IRA") while at the same time answering the concerns of various non-tribal third parties. The National Congress of American Indians

as well as the Midwest Alliance of Sovereign Tribes have stated their support for the proposed regulations to be permitted to go into effect.

1) A brief history of why the United States takes land into trust for Tribes

In the late 19th century the United States government made a policy decision that sought to end the reservation system of communally held lands. The end of communally held lands meant providing each individual Indian with an allotment that would eventually become alienable. Once all tribal members on a reservation received an allotment, the remaining “surplus” land would be sold. The hope of policy makers was that Indians would assimilate into American society.

The “Allotment Era” was initiated by passage of the Dawes Act in 1887 and continued until the policy was ended in 1934. During those 47 years, the federal government took away over 90 million acres of tribal lands that were previously guaranteed to tribes by treaties and federal law. This was over two thirds of the tribal land base, and over 80% of their value, as the best and most productive lands were the first to be taken. The remaining tribal lands, if any were left, were discontinuous, fractionated, and difficult to use for any economically productive purpose such as grazing or agriculture. The effects of the Allotment Era were devastating to tribal communities, economically and socially, and the effects continue to this day.

The Allotment Era was but one such period. Similarly unjustified tribal land grabs occurred regionally throughout the late 1800's and into the Termination Period in the 1950's and 1960's. Every tribe has a different history, but the theme is the same. The federal government came in and took the lion's share of precious remaining tribal land away without justification, most often working with the states in order to give the resources to non-Indian state citizens.

In 1934, in the wake of the Merriam Report describing the failure of the Allotment policy and the devastating poverty that existed on reservations, Congress repudiated the Allotment Era philosophy by passing the Indian Reorganization Act. The IRA ended allotment, provided that any existing trust parcels would remain in trust and provided the statutory basis for the United States to take land into trust on behalf of tribes and individual Indians. The IRA is comprehensive legislation intended to rebuild tribal governments, tribal economies, and the tribal land base. One of the chief legislative sponsors of the IRA, Congressman Howard of Nebraska, in 1934, explained rationale for the law as follows:

the land was theirs under titles guaranteed by treaties and law; and when the United States set up a land policy which, in effect, became a forum of

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legalized misappropriation of the Indian estate, the government became responsible for the damage that has resulted from its faithless guardianship.

Since 1934, the BIA has maintained a very conservative policy for putting land into trust. In the ensuing 65 years, only 8 million of the 90 million acres lost has been returned to the tribes.

2) Why the fulfillment of the Indian Reorganization Act must continue

Land is still going out of trust every day in Indian country, with allotments going out of trust and going onto the state tax rolls. In some years, the amount of land going out of trust exceeds the amount of land going into trust. An Indian tribe must have its land in trust in order to exercise unquestioned governmental jurisdiction over tribal members. Land placed into trust is a critical part of addressing tribes' need to build self-sustaining communities. The purpose of the IRA was to stop the erosion of tribal land holdings and to help Tribes regain land and improve their social welfare and economic opportunities.

The IRA is a solemn commitment on the part the United States to undo what Congressman Howard described in 1934 as the "misappropriation of the Indian estate." With less than 10 percent of the 90 million lost acres still in non-tribal hands, the IRA's purpose is just as vital as it was in 1934.

The historical asymmetry is startling. In the late 18th and early 19th centuries, greed for land and resources fueled the rapid loss of tribal lands without regard to any moral or equitable considerations. Furthermore, in many cases to the wishes of tribal people were ignored and tribes were woefully under compensated. Today, tribes must often re-acquire land with their own funds. If they are lucky enough to do so, the land-to-trust process can be time consuming and expensive itself. Despite the past, now when a tribe wishes to have a re-acquired parcel placed into trust, words like "fair" and "equal" are called out by local non-Indians who do not wish to see land go into trust. The calculation of fair and equal however must include the past as well. The wrongs of the past have left Indian people far short of fairness and still struggling for equality.

The continued fulfillment of the goals of the IRA is vital to the preservation of tribal life and the continuation of tribal nations. The land-to-trust system is a recognition by the federal government of its obligation to correct the historical wrongs of the Allotment Era. The United States cannot, with the wave of a wand, restore all lost tribal lands. However, the tribes and United States together can proceed toward fulfilling their original agreements. That fulfillment will take place within a land-to-trust system that

balances the broader historical context of tribes and their land against the present realities of land ownership.

3) Why the proposed revised administrative regulations for taking land into trust should be permitted to go into effect.

The proposed land-to-trust regulations now pending should be permitted to go into effect. As I discussed earlier, the final rule scheduled to go into effect August 13, 2001 answers many of the concerns that various parties have had in the past with the federal process of placing land into trust for Indian tribes: 1) The proposed regulations strike a balance between the interests of tribes and local governments while preserving the land-to-trust process established under 25 U.S.C. § 465; 2) The proposed regulations place higher scrutiny on off-reservation acquisitions; 3) The proposed regulations provide a needed and valuable tool for landless tribes to begin to acquire trust land; 4) The proposed regulations treat land applications for parcels contiguous to existing reservations as off-reservation.

The balance struck by the proposed regulations recognizes the underlying reality that the world we live in is one in which we are becoming more interdependent. Tribes and local governments, therefore, are forced into closer contact. A federal policy that unduly favors one side or the other unnecessarily makes it more difficult for cooperation and co-existence between tribes and local governments. Any contemplated further consideration of the interests of other non-Indian parties is undue: the proposed regulations strike that balance fairly and equitably while preserving the intent of the IRA.

The letter and spirit of the IRA create a process between the Federal Government and the Tribe. Nothing in the statute suggests that local governments should have any role in the process. The proposed regulation is rigorous enough to ensure that local governments will have significant opportunities to have their interests weighed by the Department when considering a trust acquisition.

There is little doubt that even under the current regulations local governments are receiving an opportunity to make their interests known in a meaningful way. The last fee-to-trust transaction completed by the Stockbridge-Munsee Tribe and the U.S. took over three years. Though a combination of factors caused the delay, one of them included an appeal by a county government that added about 5 months to the process. The county's appeal was only a *single* step in the appeal process (appealing the Superintendent's decision to the Area Office) but still added 5 months to the time the Tribe had to wait. These 5 months were important as the Tribe wanted to use the land to build a waste water treatment facility and new health center. These projects were delayed by the County's appeal and for various financial reasons, time was of the essence.

4) History of Stockbridge-Munsee Community Land Loss

The Stockbridge-Munsee position on the final rule is influenced by its own unique historical perspective. I close by briefly reviewing the history of the Tribe's land loss. In 1856 the Tribe entered into the last of its treaties with the United States, the result of which is the Tribe's current two-township reservation. The Tribe's two townships cover approximately 46,000 acres. Today, the Tribe holds approximately 18,000 acres of that land in trust and owns another 2,500 acres or so in fee simple.

The Tribe felt the consequences of both types of Allotment Era land loss. First, in 1871 Congress passed an Act calling for the sale of 3/4ths of the Stockbridge-Munsee Reservation. The land was heavily timbered and the Congressman representing the Tribe's district owned many lumber mills in the area. He helped get the bill through Congress and profited heavily from the sale. These facts are well documented. The remaining 18 sections continued to be held as trust land until 1906.

Second, in 1906, pursuant to federal legislation, the remaining 18 sections were patented in fee to the tribal membership. In less than 10 years all of the land was out tribal hands, due to unpaid taxes, land sharks and mortgage foreclosures. Many tribal members lived as squatters and a fortunate few purchased fee land within the two townships. The tribal population was in dire economic straits for the next 20 years until the Indian Reorganization Act in 1934. The U.S. government purchased about 1,000 acres for the Tribe and placed it in trust in 1937. The Tribe approved an IRA constitution in 1937. The Tribe regained another 1,200 acres from the BIA in 1948. In 1972 the U.S. provided another 13,000 acres of sub-marginal lands. These lands had been a hold over from Depression-era relief programs that sought to acquire sub marginal lands for Indian tribes. Over the last 25 years, the Tribe has purchased land as it was able and placed it into trust.

The Stockbridge-Munsee Tribe's history presents at least as compelling an example as any Tribe in the country of the past failures of United States' policy with respect to tribal lands. In 1871, the Stockbridge Tribe suffered the sale of heavily forested "surplus" lands earlier than most tribes, causing the Tribe to lose 3/4ths of its already small land base. In 1906, the Tribe's remaining land base was patented in fee to the tribal membership. There was no trust period in place to buffer individual tribal members against loss of land through land fraud, and tax and mortgage foreclosure. After the issuance of fee patents in 1910, many tribal members unwittingly sold their patent for below its value. All of the tribal land base was gone by 1920. The Stockbridge-Munsee land history is a prime example of why the Indian Reorganization Act provides for land to be taken into trust on behalf of tribes.

REVIEW of MAPSMAP 1 -1856

The Tribe was possessed of its entire two-township Reservation in 1856. The Tribe's land base was 46,080 acres.

MAP 2 - 1875

In 1871, Congress authorized the sale of 3/4ths of the Tribe's Reservation, mostly for its valuable timber. The Act passed in 1871 and within 4 short years the sale was complete and 34,000 acres were taken out of tribal hands.

MAP 3 - 1937 and 1948

In 1937, the BIA purchased the lands indicated in blue and place them into trust for the Tribe. In the 1948 the lands in orange were added.

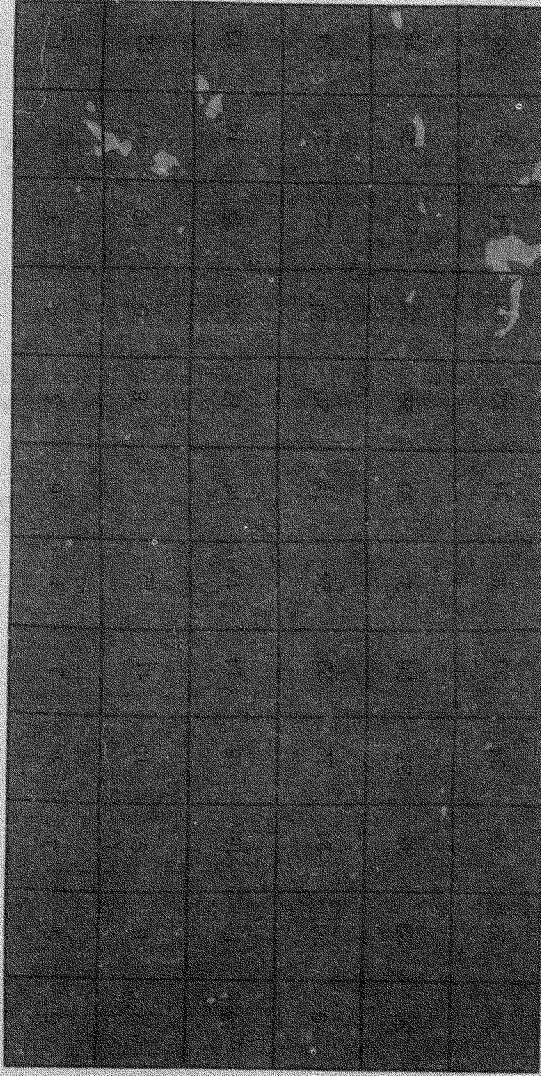
MAP 4 - 2001

The IRA lands are indicated on Map 3. The yellow lands are in trust and the green parcels are owned in fee by the Tribe. Many of them are pending in the land to trust process.

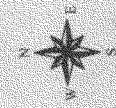
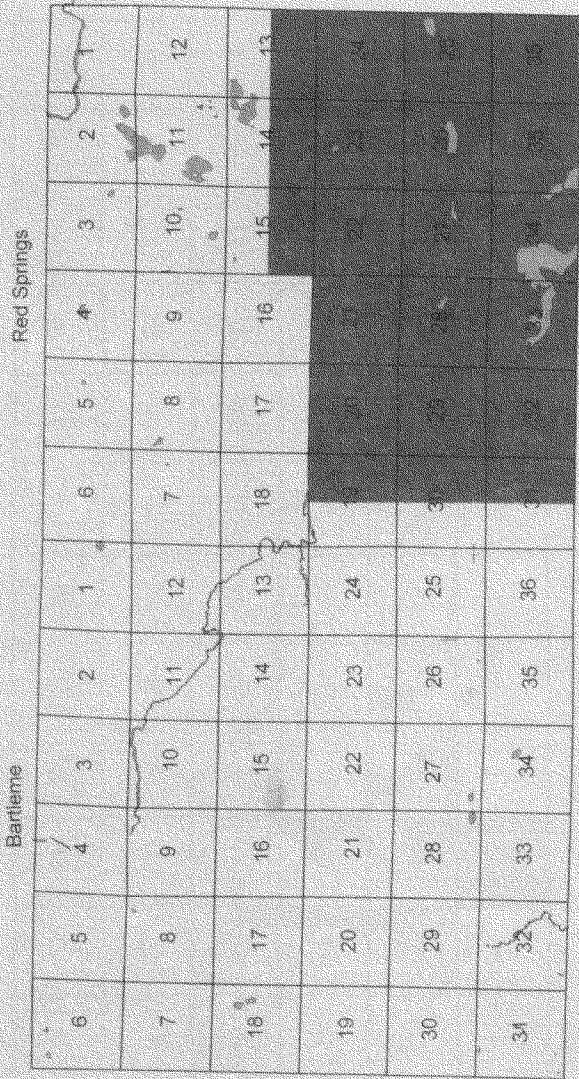
Stockbridge-Munsee Band of Mohicans Reservation Shawano County, Wisconsin 1856

Bartleme

Red Springs

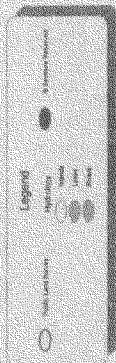


Stockbridge-Munsee Band of Mohicans Reservation Shawano County, Wisconsin 1875

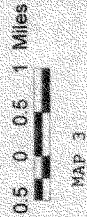
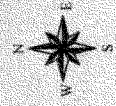
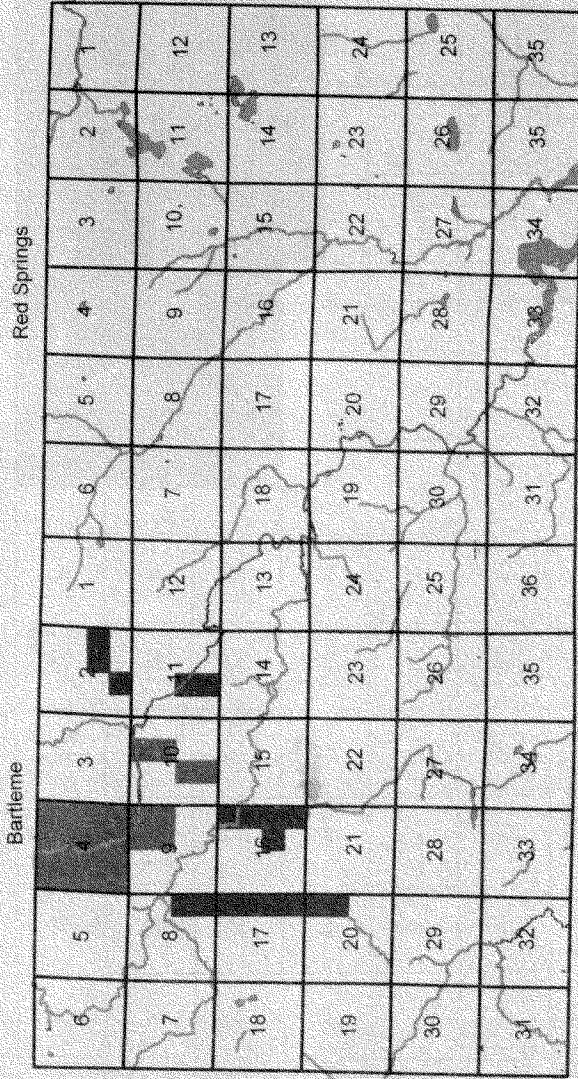


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MAP 2

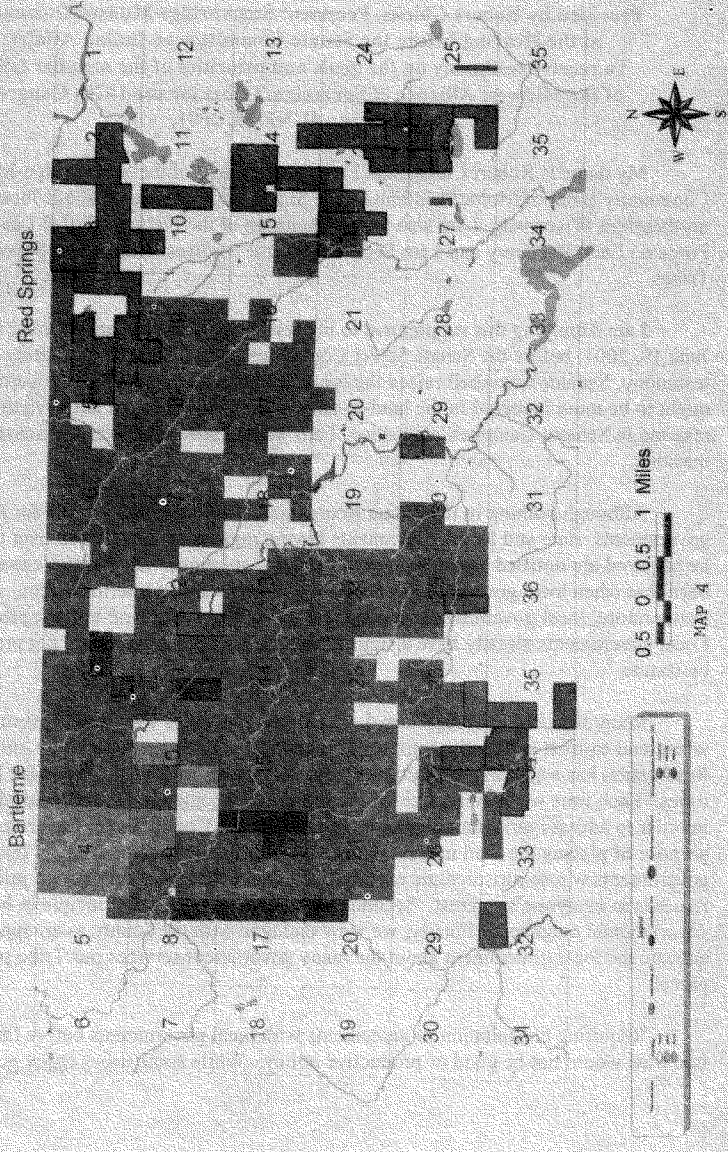


Stockbridge-Munsee Band of Mohicans Reservation Shawano County, Wisconsin 1937 & 1948



MAP 3

Stockbridge-Munsee Band of Mohicans Reservation Shawano County, Wisconsin 2001



SUPPLEMENT TO TESTIMONY

**Provided by Robert Chicks, President Stockbridge Munsee Community
at the Hearing before the Senate Committee on Indian Affairs:**

**To receive testimony on the goals and priorities of the member tribes
of the Midwest Alliance of Sovereign Tribes for the 107th Congress**

10:00 a.m., JUNE 19, 2001.

My name is Robert Chicks and I am the President of the Stockbridge-Munsee Community Band of Mohican Indians. The Stockbridge-Munsee Tribe is located in northeastern Wisconsin. I am also the co-chairman of the National Tribal Leaders Task Force on Land Recovery and I am Secretary for the Midwest Alliance of Sovereign Tribes.

I am supplying this supplement to my testimony given on land-to-trust issues on June 19, 2001, before the Senate Select Committee on Indian Affairs. During my testimony, Senator Campbell raised the issue as to whether or not local governments ought to be more involved in the land-to-trust process. Since I did not have time to respond to Senator Campbell's question, I am writing now to answer the Senator's question.

Although nothing in the Indian Reorganization Act provides a role for local governments, state and local governments having regulatory jurisdiction over the lands to be acquired are notified now pursuant to federal regulations. My Tribe's experience has been that when local governments comment, the Secretary of Interior listens. Furthermore, local governments have appeal rights within the land-to-trust process. Local governments already have a significant role even though they are not provided one by statute.

Many tribes have set up formal or informal processes with local governments when land-to-trust applications are filed. The local county government by our Reservation has a standing resolution against all land-to-trust acquisitions for Indian tribes. Each time we have a parcel going into trust, we attempt to work with the county in order to address jurisdictional issues and to help the County better understand the purpose of placing the land in trust status. We do this for many reasons. First, as local governments whose jurisdictions overlap, we believe that working through jurisdictional issues is in everyone's interest. Second, we believe as a general principle in being good governmental neighbors. Finally, we view dialogue with the county as an opportunity to educate the local government about the many government services our Tribe provides to a parcel.

Requiring consultation or agreements with local governments before land could go into trust would not be good or productive policy. While some tribes enjoy good

relations with local governments, many do not. Federally mandated involvement would invite abuse by local governments.

A more constructive approach by Congress would be to provide incentives rather than mandates that will foster good relationships between tribes and non-Indian local governments. For example, my Tribe and surrounding local governments have enjoyed many years of success under several local agreements including a Cooperative Law Enforcement Agreement, an Indian Child Welfare Agreement and a Mutual Aid Agreement for Firefighting, just to name a few. Under the Cooperative Law Enforcement Agreement, to take one example, a combination of state, federal and tribal funding supply extra tribal law enforcement officers that are cross-deputized by the county. These officers are tribal employees but are also authorized and available to respond off the reservation.

These agreements strengthen the relationships we have with local governments. However, their strength would be substantially undermined if they were required. The Tribe, as a sovereign government, must be able to negotiate from a position handicapped by the specter of a federal mandate. As a secondary benefit of the agreements, they reduce opposition to the land-to-trust process. Aside from the obvious practical value of the agreements, they also allow local governments and the Tribe to set aside what otherwise might be a source of contention in the land-to-trust process. The more subject matter areas where agreements can be reached and set aside, the further along tribes and local governments will be toward ending the acrimony over the land-to-trust issues.



MILLE LACS BAND OF CHIPPEWA INDIANS

Executive Branch of Tribal Government

**TESTIMONY OF THE
HONORABLE MELANIE BENJAMIN
CHIEF EXECUTIVE OF
THE NON-REMOVABLE MILLE LACS
BAND OF OJIBWE INDIANS
ONAMIA, MINNESOTA**

*Before the Senate Committee on Indian Affairs
June 19, 2001*

Mr. Chairman and Members of the Committee, my name is Melanie Benjamin. I am the Chief Executive of the Mille Lacs Band of Ojibwe from Onamia, Minnesota. It is an honor to present the views of the people of the Mille Lacs Band to the Committee.

Today, I respectfully request that the Committee introduce legislation in three different areas.

First, amendments to Title IV of Public Law 93-638, the Self-Governance Act as it applies to the Bureau of Indian Affairs (BIA) and the Department of the Interior, are needed to reflect advances made in Title V.

Second, legislation relating to the transfer into trust, immunity from the exercise of local and state jurisdiction, and non-alienability of tribal fee land within reservation boundaries should be introduced.

Third, an economic development grant program should be established under Public Law 102-477 to create new jobs in Indian country for those formerly under general assistance programs who are now attempting to achieve self-sufficiency.

TITLE IV AMENDMENTS AND TRIBAL SELF-GOVERNANCE

The development of self-governance is probably the most significant enhancement of the United States/Tribal Government Relationship since the treaty era. Through self-governance, the Band has been able to develop economic activities to employ its members, construct facilities for education and health needs, and establish public water systems and housing. Over the past ten years, the Band has made unprecedented progress unlikely to be matched in the future by any BIA program.

Mille Lacs Band of Ojibwe – MAST Senate Testimony
June 19, 2001

As the Committee knows, in 1994 Congress passed Public Law 103-413, the Tribal Self-Governance Act. This Act made tribal self-governance a permanent principle of the Department of the Interior's administration of Indian affairs. Last year, the Congress passed Public Law 106-260, which made self-governance a permanent part of the Indian Health Service and included a demonstration project in the Department of Health and Human Services regarding self-governance. Titles V and VI of the Self-Governance Act are vast improvements over the existing provisions in Title IV. Hence, I respectfully request that the Committee consider amending Title IV.

As a member of the Rulemaking Committee on Title V, I have noted that, unlike the current version of Title IV, improvements in the Title V statute have enabled the Committee to draft regulations quickly and effectively. For example, Title V contains a definition of "inherent federal function". The absence of this definition in Title IV caused a delay of several months in the Rulemaking process. (In the end, the Federal side would not agree to insert the definition in the Title IV rules in spite of a Solicitor's Opinion defining the term.) In fact, the Title IV regulations took over five years to draft. It appears that the Title V regulations will be completed in the time required in the statute. Hence, various amendments to Title IV are needed. The obstinacy of the BIA in defining "inherent federal function" is indicative of their overall approach of protecting the Bureau as opposed to advancing self-governance. Failure to deal honorably with self-governance, and a readiness to delay through word games, has created a whole host of problems for self-governance tribes. A very important example deals with the very basis of self-governance; the control of dollars.

It was the belief of the Mille Lacs Band when it entered the self-governance movement that when the Bureau of Indian Affairs received a budget increase, we would receive a budget increase. Based on a cursory review of the appropriations for the BIA over the past seven years, we note that the Bureau has received a substantial increase. During this same time period, the Mille Lacs Bands' base budget has declined. It is our view that our budget should reflect gains made by the BIA.

Our base funding should increase with the BIA budget. Our initial base funding was derived from tribal "638" contracts along with tribal shares from other programs. The base funding was a combination of Bureau programs compacted for and, in some cases, additional funding from a fund called "shortfall," which was determined by the Office of Self-Governance. When the Mille Lacs Band Government developed its initial base funding we took all programs we were eligible for and developed a base-funding amount. It was our understanding that this base funding would parallel to the funding level of the Bureau's program. However, this has not been the case.

Mille Lacs Band of Ojibwe – MAST Senate Testimony
June 19, 2001

Attached is a summary of what has happened with our funding versus what has happened with Bureau funding over the last seven years. Because the Band government compacts all eligible programs, the analysis of what has happened to funding is very clear. Under self-governance, the funding the Band received from 1993-2000 has decreased by 5% whereas the Bureau's budget has increased 20% over the same time period. It is our belief that this was never the intent of the self-governance policy and that our base level funding should increase proportionally with the Bureau's budget. In 1995, during the period of the Graham/Rudman budget cuts, our base funding was reduced at the same level as all other federal programs. Yet, as the Bureau developed its budget it initially kept our base funding at the same level, and only when Congress passed additional funding did we see any increase in our funding. (It should be noted that we took a 17% cut in 1995, whereas the BIA took only a 10% reduction.) Hence, the Congress needs to step in on behalf of self-governing tribes to ensure that our increases are commensurate with BIA increases.

We believe that this issue should be addressed in legislation, and is currently detrimental to self-governance Policy. The solution is to require the funding of tribal base level budgets at a level proportional to the funding increase in the BIA and Department of Interior Budgets.

LEGISLATION ON TRIBALLY OWNED FEE LANDS

There are few statutes relating specifically to the status of fee simple lands owned by a tribal government within the reservation, and this lack of guidance is generating a large number of issues. The result is that courts have to determine many matters without any guidance. Furthermore, because of the difficulty in moving land into trust, there are numerous problems developing out of this issue as well.

The Mille Lacs Band would like to see an improvement in the current system of transferring land from fee simple status to Federal trust status. Congress should consider the enactment of legislation that would provide a special status for tribally owned fee lands within reservation boundaries. Many of these lands are being used for tribal government purposes. In spite of this fact, these lands are subject to certain types of jurisdiction exercised by counties and states. This includes subjecting these tribal lands to taxation by another sovereign. We believe that one way to deal with these issues would be legislation that deems lands within reservations, when owned by the tribal government and used for governmental purposes, to be non-alienable and immune to the jurisdiction of any sovereign other than that of the owning tribe, except as provided by federal law.

Mille Lacs Band of Ojibwe – MAST Senate Testimony
June 19, 2001

NEW ECONOMIC DEVELOPMENT AMENDMENT

Public Law 102-477, the Indian Employment and Training and Related Services Demonstration Act of 1992, allows Tribes to integrate the employment, training and related service they provide in order to improve the effectiveness of these services, reduce joblessness and serve tribally-determined goals. Many Tribes have adopted new and innovative approaches to restructuring and integrating their services utilizing Public Law 102-477. Indian tribes struggle with limited resources and lack of employment opportunities on reservations and have made great strides in offering coordinated support services to their tribal members. For generations poverty has been prevalent in many of our Indian communities, in part as a result of past federal policy. Many tribes suffer from extremely high unemployment rates. Because of the remoteness of most Indian reservations, economic development and job opportunities are few.

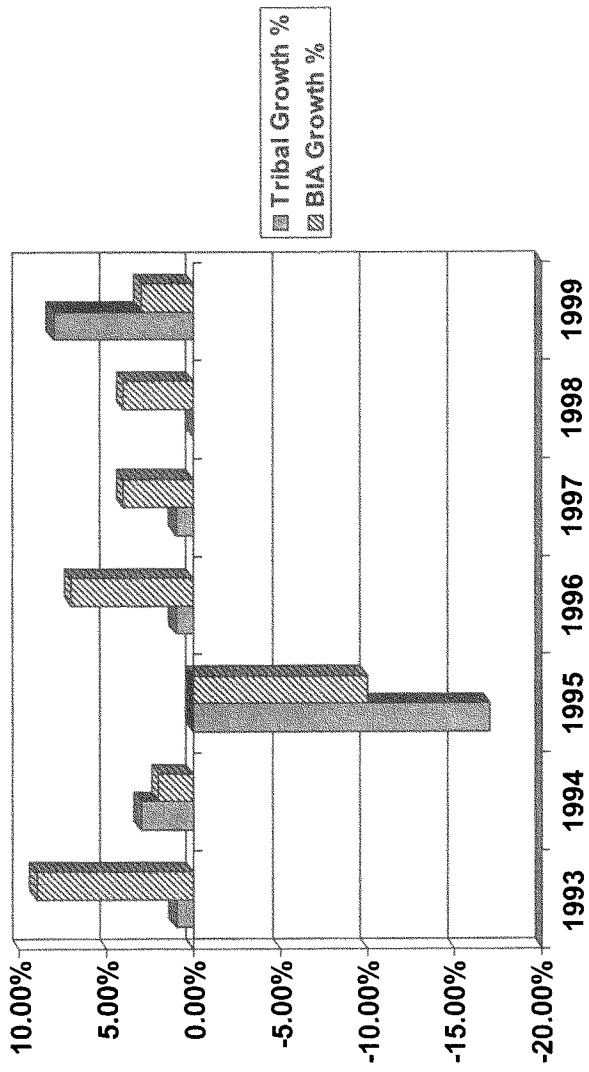
There is a major unmet need in Indian Country for an economic development initiative which creates employment opportunities for tribal members moving from public assistance to self-sufficiency.. Without job opportunities, any welfare-to-work programs will fail. The Mille Lacs Band would like to propose that Congress develop a Tribal Demonstration Project which would include economic development grants. The grant program would assist tribes in the development and implementation of management and infrastructure capability; coordinate economic development related programs and services more effectively; assist in developing tribal business ordinances; and generally encourage economic development. This demonstration project should have stable base funding and be awarded to competitively selected Indian Tribes and Alaskan Native Villages for comprehensive economic development. The project would encourage tribes to design, improve or expand economic goals that use the available human, natural, financial, and physical resources to which the tribes have access.

Such an amendment would fight the poverty that exists on many reservations across this country. Indian families cannot move from welfare to work if there is no work.

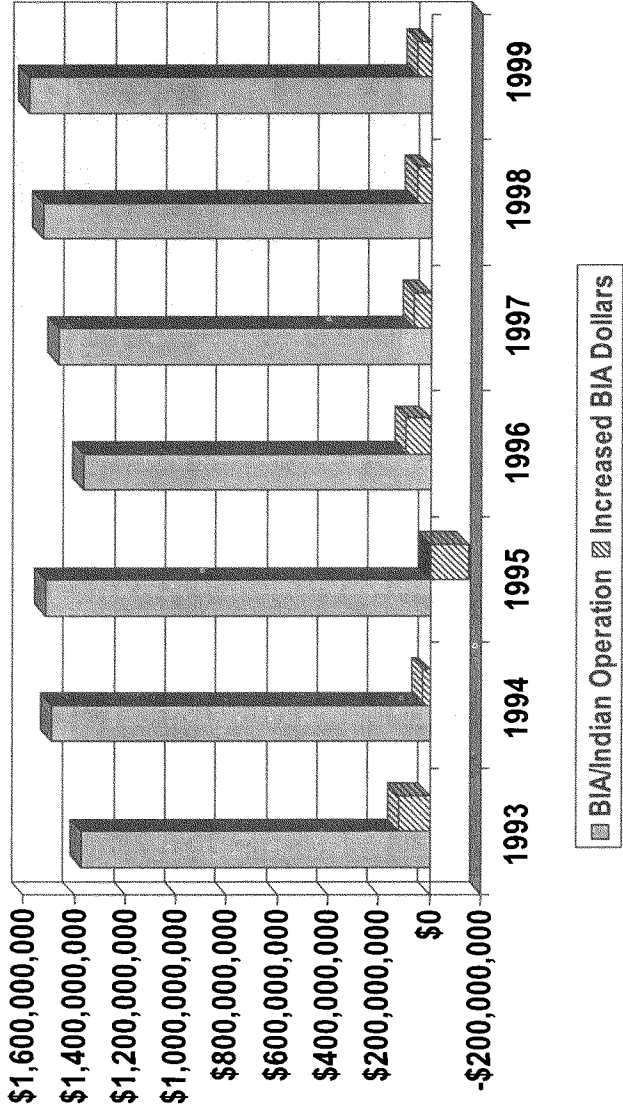
CONCLUSION

The Mille Lacs Band looks forward to working with the Committee on these and other issues. We believe in the preservation and protection of our land whether it is held in trust or fee as well as self-governance and economic development for ourselves and all Indian tribes. We believe that the proposed legislation I have outlined are positive steps in achieving all of these goals and therefore ask you to seriously consider adoption of legislation incorporating these measures. For this opportunity to share the views of the Mille Lacs Band, I say "Miigwetch" – thank you.

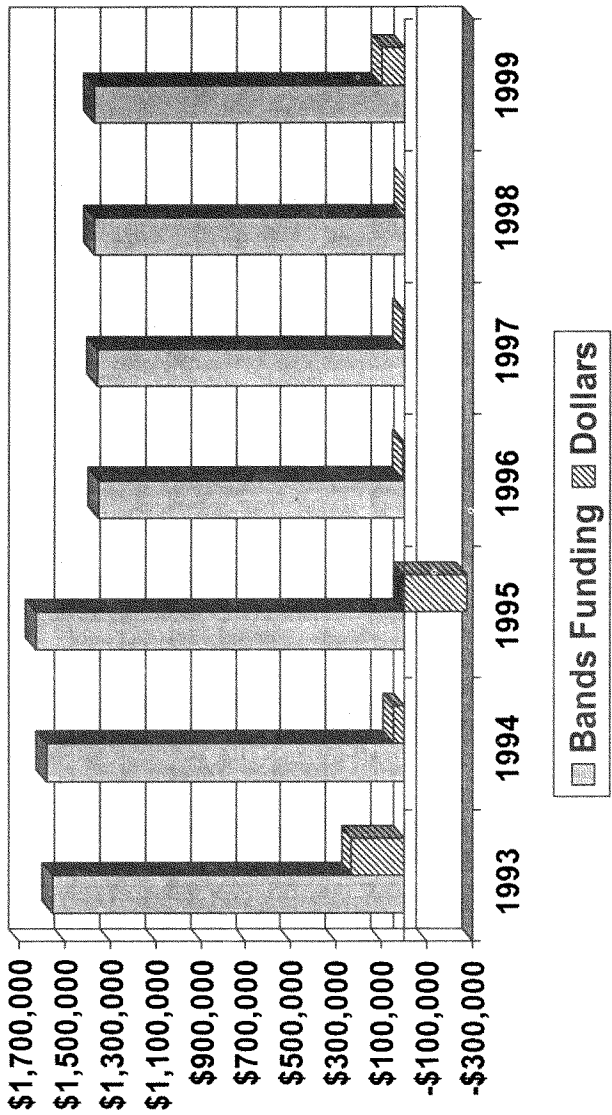
Growth Percentage



BIA Increase



Band Funding Levels Increase





Leech Lake Band of Ojibwe

Eli O. Hunt, Chairman

Linda G. Johnson, Secretary/Treasurer

District I Representative
Peter D. White

District II Representative
Lyman L. Losh

District III Representative
Richard Robinson, Jr.

Oral Testimony by

**Eli O. Hunt, Chairman
Leech Lake Band of Ojibwe**

**Before the
Committee on Indian Affairs
United States Senate**

**Washington, D.C.
June 19, 2001**

Good Morning, Mr. Chairman and members of the Committee. My name is Eli Hunt, Chairman of the Leech Lake Band of Ojibwe Indians in Minnesota. I am also here as a representative of the Midwest Alliance of Sovereign Tribe or MAST. MAST is a consortium of 36 tribes located in Michigan, Wisconsin, Minnesota, Iowa and Indiana with a total membership of 136,000.

The Leech Lake Reservation is located approximately 200 miles north of Minneapolis. Health care services are provided by the Indian Health Service and the Band under a P. I. 93-638 contract to cover 13,000 people. The Tribal Council of the Band affirms that American Indians experience a great disparity in health conditions as compared with other races. We want to work with the Congress and the Administration to achieve health parity for our people.

The Leech Lake Tribal Council is the duly recognized governing body of the Leech Lake Band of Ojibwe. The Council believes that quality health care is an essential service for the citizens of the Leech Lake Reservation. The Council is committed to active involvement in the structuring and prioritizing of health care delivery to the people.

The Council cites the Snyder Act of 1921, the Indian Self-Determination Act as amended, and the Indian Health Care Improvement Act as amended as the basis for maintaining and fulfilling the trust, legal and moral responsibility of the Federal government to American Indians and Alaska Natives.

The Leech Lake Band and the member tribes of MAST acknowledge and appreciate the 8% increase in the IHS budget for fiscal year 2001. However, we also note that this still fell far short of addressing the unmet need. Over the past eight years, the IHS budget has grown by 36% while inflation and population growth has created a need for a 58% increase to simply maintain program effort.

Throughout 2000, IHS has consulted with tribes and tribal and urban Indian organizations, including the National Congress of American Indians, the Tribal Self-Governance Advisory Group, the Level of Need Funding Work Group and the National Indian Health Board in the development of the 2002 budget.

This process has lead to the development of an \$18 billion needs-based budget. This figure includes a non-recurring \$8.7 billion facilities construction request and \$10 billion to fully fund the health care needs of American Indians and Alaska Natives. As a representative of the Leech Lake Band and MAST, I fully support the FY 2002 recommendations made by the LNF Workgroup.

We understand that the Indian Health Care Improvement Act will require reauthorization for fiscal year 2002 and beyond. Legislation to reauthorize and amend the Act is pending before this Committee as S. 211 and before the House as H. R. 1662. The Leech Lake Band and the MAST tribes strongly support enactment of this critical legislation. Not only will this legislation continue the appropriation authorization for the many critical health programs in the Act, but it also contains badly need program authority to improve Indian health care delivery.

The Band also has some specific concerns in the area of health care delivery. With respect to contract support costs, we feel that those funds should be placed in a pool and equally divided. In the same vein, a more equitable policy for the distribution of facilities construction funding must be adopted.

In particularly, the Leech Lake Band requests that there should be consideration for the funding of construction projects to improve or replace old, inefficient and obsolete health care facilities. The Public Health Service hospital and clinic located in the city of Cass Lake on the reservation, initially built in 1937, has gross shortages in space and facility utilization that directly affects the ability of IHS and the Tribal Health Division to meet the needs of the 13,000 registered patients. Two satellite clinics have been constructed and staffed with midlevel providers to attempt to meet the health care needs in remote areas of the reservation. Through the use of third party reimbursement, this has brought an alternative approach to providing health care.

The Band is also very concerned about the inadequacies of the Contract Health Care program. These health care dollars are used for wrap-around services and are used for a priority system that rations health care. The great need for contract health care is based upon the various illnesses within our population and is determined upon a life-and-death basis. The IHS contract health care program is in dire need of more funding to adequately address the needs for advanced medical care in Indian country.

We would also like to note for the Committee's consideration that the 2002 budget request does not include continued funding for redirected resources. This leaves no avenue for tribes to access Federal construction dollars. As a consequence, there would be no chance at all for construction funding.

Finally, Mr. Chairman, we would like to note that the level of needed funding for IHS health care is below what we need to provide to all of our beneficiaries. Congress directed IHS to work with tribes to develop a sound, logical rationale for the documentation of this need. Dr. Trujillo formed a national workgroup to do this. The formula that the workgroup developed involved the comparison of the funding we get with the amount of dollars we would receive if we provided the same level of service as a Blue Cross Federal worker's health insurance plan. That comparison showed that, if the National average cost is \$3,500 per person, the IHS funding is \$1,600 per person.

Further analysis showed that the funding IHS receives is not equally distributed through the IHS areas. The Bemidji Area gets \$850 per person and we are the lowest funded IHS area. We respectfully request that this Committee take action to bring every tribe up to at least 70% of the needed funding. In addition, a special appropriation is needed to bring the Bemidji Area tribes up to an average of 6.5% of level needed funding.

Mr. Chairman, this completes my statement on behalf of the Leech Lake Band and the MAST tribes. I would be happy to answer any questions the Committee members may have.

White Earth Reservation Tribal Council

CHAIRMAN - Doyle Turner • SECRETARY TREASURER - Erma J. Vizenor
DIST. I - Irene Auginaush Turney • DIST. II - Terrance Burnette • DIST. III - Kenneth Bevins

SENATE HEARING TESTIMONY

June 19, 2001

Committee on Indian Affairs
White Earth Reservation, Minnesota
by
Doyle Turner, Chairman

Chairman Daniel Inouye and members of the Senate Committee on Indian Affairs I am honored to provide testimony today on behalf of the Tribal Membership of the White Earth Reservation concerning important issues in reference to justice, law enforcement and maintaining a high quality of life for our people.

We are experiencing limited economic growth do in large part to our gaming enterprises. The growth has provided increased employment opportunities and allowed us to add resources that are used to improve services to our clients. However, the economic boom and period of prosperity that this country is experiencing collectively does not translate to the people of White Earth at the same pace as the dominant society.

It does, however, present Indian Country with many increased social problems and the need to address them. Our communities are unable to participate in this improved quality of life if their living environment is not safe. My testimony today will focus on the need to provide a quality public safety program that not only includes a police unit, but will merge our culture in a community policing effort.

The White Earth Reservation currently has a public safety program that has a police department funded primarily by Community Oriented Policing Service grants from the Department of Justice. Our Police force, established in 1995, is able to maintain a relatively small force that because of limited resources is unable to effectively serve our area of jurisdiction.

Minnesota is a public law 280 state which allows the State and counties to assume concurrent jurisdiction with the Tribes. In addition recent court cases state that Indian Tribes in Minnesota must assume civil authorities in civil matters. These court actions add new demands on our law enforcement and judicial efforts which further dilutes our limited public safety resources.

All Indian Country is currently impacted by the return of membership to the reservation from urban areas because of our economic growth, availability of employment, and the restriction imposed by the welfare reform time frame for assistance. This population shift from areas outside the reservation brings with it housing shortages, increased substance abuse issues, gang related activity and increased domestic problems all of which creates increased social unrest and a greater involvement from the reservation law enforcement and judicial services.

We appeal to this committee to assist us in the following area:

- The current time frame that fund Department of Justice Grants (COPS) be extended to allow the continuation of our reservation public safety (police department). The reservations do not have a tax base to draw funds to assume the financial responsibility for the COPS program.
- Increased funding for our court system to allow for the development and implementation of criminal and civil codes. Funding would provide for the professional prosecution and defense for the membership .
- Funding for community policing, auxiliary police, youth police cadet program and prevention in the substance abuse programs..
- Funding for the construction of a correctional facility. Currently a violator that is arrested and prosecuted through of courts can not be confined to a holding facility because one is not available, or the cost to house prisoners in a county facility is to costly.

In summary the White Earth Reservation must provide a safe environment for our people. If this can be accomplished it will improve our quality of life by expanding our economic base and reducing social problems. I am leaving a narrative and a listing of our unmet needs required for our Tribal Government to provide quality services to our membership.

Thank you for this opportunity and I request favorable consideration be given to my request on behalf of the White Earth people.

**Status Report on Unmet Needs for the
White Earth Reservation, Minnesota
June 2001**

The White Earth Reservation is located in Northwestern Minnesota. Included within our boundaries are three of the most impoverish counties in our state. High unemployment and the lack of economic opportunities exist for the approximately 9,000 residents of this reservation. The Indian population is about 30% of the total. We have experienced limited economic growth and increased employment opportunities do in large part to our gaming enterprises. However, the economic boom and period of prosperity that this great country is experiencing collectively does not translate to the people of White Earth at the same pace as the mainstream society.

The White Earth Reservation has a number of funding deficiencies in our programs that impede our efforts to provide a safe environment and high quality of life for our people. This report will present issues and concerns that require additional allocations of resources to insure our ability to provide quality services for the membership of the White Earth Reservation.

Public Safety, Law Enforcement & Tribal Court Needs

The State of Minnesota is one of six states that placed Indian Reservations under Public Law 280. Public Law 280 restricts civil regulatory statute enforcement by State and County Law Enforcement authorities. Multi-government agreements and supportive State of Minnesota legislation assisted in the establishment and recognition of a Tribal Police Force on White Earth Reservation. White Earth Reservation has taken bold moves to address law and order issues. However, these efforts depend on Department of Justice funding.

The current FY 2001 budget for Public Safety and Law Enforcement on White Earth Reservation is:

| | | |
|-----------------------------|-------------|------------------|
| U.S. Department of Justice | \$2,202,236 | 18 Officers |
| White Earth Tribal Council | \$689,529 | 10 Staff/Support |
| U.S. Department of Interior | \$197,297 | 1 Staff |

Unmet Needs Budget Analysis

| | |
|----------------------------------------------------------------------|-------------|
| Department of Public Safety/Police Operations (staffing estimate) | \$3,224,257 |
|----------------------------------------------------------------------|-------------|

| | |
|------------------------------------------------------------------|-------------|
| Law Enforcement Center for operations (construction estimate) | \$1,400,000 |
| Detention/Jail Facility (construction estimate) | \$1,200,000 |
| Detention/Jail Facility (staffing and operations estimate) | \$680,000 |
| Projected unmet need | \$6,504,257 |

Housing-Lack of Available & Affordable Homes

The White Earth Tribe is experiencing an increasing number of our membership returning to the reservation. The reason for this migration is due to the availability of employment within our gaming enterprises and the time constraints for assistance contained in the welfare reform law. Our recent survey of housing needs are as follows:

| <u>Type of Home</u> | <u>Waiting List</u> |
|---------------------------|---------------------|
| Low Rent | 183 Families |
| Rental Assistance Program | 42 Families |
| Home Buyer Units | 47 Families |

272 units at \$80,000 = \$21.8 Million

In addition approximately \$15,000 per unit is needed for sewer/water and land for a total of \$4 million.

The lack of housing forces the extended family concept of combining more than one family unit to live in a home. This adds barriers to employment, education, and in many cases contributes to domestic conflicts.

Our unmet need is approximately \$25.8 million.

Business Development

This reservation has a need for individual technical and financial assistance for economic development. We do not have the ability to properly encourage and support business ownership on and near the White Earth Reservation. Business failures in the past have been effected by under-capitalization and/or over-leveraging. A program offering incentive grants of \$20,000 to \$50,000 for

business start-up or purchase would increase the chances of business success and provide badly needed jobs to the residents of the Reservation. A grant program would enable us to help from two to five projects a year. The cumulative effect would provide many of the additional jobs needed.

Our unmet need is approximately \$100,000.

Airport

This Band has recently completed a full service convention facility. Our remote location and lack of public transportation increases the need for an airport to provide better access to the new facility. In addition it would stimulate the potential relocation of business development from off the reservation to our area. We are in the planning stages to collaborate with city and county governments to accomplish this improvement.

Our unmet need is approximately \$200,000.

Education

Education is among our highest priorities. Currently we operate a Head Start program, an elementary school, a combined elementary/secondary facility and a Tribal Community College.

Our elementary/ secondary school is funded through the Bureau of Indian Affairs at a level that enables us to operate a less than desired program to less than a fourth of our potential students, yet provides no funds for major capital improvements. We have an urgent need for a new education facility here in White Earth to house our elementary/secondary students. The existing facility is well over 40 years old and has a capacity of 100 students and currently houses 150 students. We have over 500 identified students who meet the eligibility criteria for our school. The facility contains no science or vocational space, shares space of the dinning room for a gymnasium, and has no outdoor physical education training facilities such as a ballpark or track. The facility is also located within 60 feet of the major road limiting expansion. Our children need to have the proper educational foundation for post secondary and/or vocational training. Without funds for a new facility we will continue to see high school dropout rates on our reservation, already the highest in the nation, climb even higher. We today present twice as many high school equivalent diplomas to adults than we graduate high school students all because of the lack of proper facilities.

Our unmet need for new school construction is approximately \$11 million.

Health and Human Services

Our members suffer from high anxiety and mental health strains because of the lack of economic opportunities on the reservation, leading to their inability to provide for the care of themselves and their families.

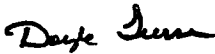
Currently we operate Mental Health and Chemical Dependency programs funded through a combination of Federal and State agencies in the amount of \$1.2 million dollars yearly, these funds however do not meet our entire needs. We remain unable to provide follow-up family counseling. Our population is increasing at a greater pace than the capacity of our systems funding levels. In order for us to provide complete services we must expand the capacity to include follow-up care with family support services. Without these funds existing services to our clients will continue to be reduced by the increased caseloads, or quite possibly, some families will simply be turned away from all services.

Our unmet need is approximately \$300,000.

In summary the White Earth Reservation must provide a safe environment for our membership. We request favorable consideration be given to our request for funding our unmet needs as outlined in this report. If this can be accomplished it will improve our quality of life by expanding our economic base and reduce many social problems facing our people.

Thank you for the opportunity to present this report and request, if additional information is needed we would be pleased to provide it.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Doyle Turner", with a stylized, flowing script.

Doyle Turner

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Michelle Hazen, Secretary

Council Members:

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Robert White



**Statement of the Honorable Richard McGeshick, Sr.
Chairman of the Lac Vieux Desert Band of Lake Superior Chippewa Indians
Before the Senate Committee on Indian Affairs Hearing
On the Relevant Needs of the Midwest Alliance of Sovereign Tribes**

June 19, 2001

Good morning Chairman Inouye, Vice Chairman Campbell and distinguished Members of the Committee. My name is Richard McGeshick, Sr., Chairman of the Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan (hereinafter, "LVD"), a Federally recognized Tribe. I appreciate the opportunity to present testimony today before this Committee on the relevant need of our Tribe, as well as the other Tribes that make up the Midwest Alliance of Sovereign Tribes (MAST).

As a matter of background, the Tribe is located in a rural community in Michigan's Upper Peninsula. In the late 1970's, before gaming, unemployment levels of Tribal members approached seventy percent (70%) and those who had jobs averaged two thousand three hundred dollars (\$2,300), per annum. Housing was substandard with little or no plumbing and as many as two or three families lived together in a single-family home. Members suffered from very low education levels and alcoholism was extremely high. Finally, the Tribe was Federally unrecognized and Tribal culture was eroding at a devastating rate. With little opportunity for members in the remote area of Watersmeet, Michigan, the Tribe established a very modest bingo hall in a small building.

Initial revenue generated from this facility provided "seed" money for the Tribe to build a larger bingo facility and more importantly, secure fifteen HUD homes. The larger bingo facility also served as the Tribe's modest indoor recreation complex, community activity center and Tribal offices. Revenue from the new bingo facility provided the financial support necessary for an additional twenty HUD homes as well as a new health and social services center to address the needs of the Tribal members. As the bingo facility prospered, funds were generated to build the Tribe's spiritual center. Meanwhile, in 1988, the Tribe achieved Federal recognition, which was the United States' acknowledgement of the Tribe's rich culture, heritage and sovereign right to self-government. Today, the Tribe operates a Class III casino under a gaming compact with the State of Michigan, in compliance with the Indian Gaming Regulatory Act (IGRA). It is no exaggeration to declare that the economic and social impact of the casino has paved the way to self-determination and self-respect to the Tribe and its members.

**Statement of Chairman McGeshick, Lac Vieux Desert Tribe
MAST Hearing, Senate Committee on Indian Affairs
June 19, 2001 -- Page 2 of 6**

The following briefly discusses what the LVD Tribe feels are the relevant needs in our region of Indian Country, listed in a prioritized manner, with the highest priority listed first.

Economic Development – This is an area that is probably one of the most critical for LVD and most other MAST Tribes. Through viable economic development and economic expansion plans, most, if not all other Tribal needs can be met. LVD has done a great job in developing its gaming enterprise, hotel, golf course, restaurant and other economic ventures. However, the need to expand and diversify the Tribe's economy is always at the forefront of the Tribe's governmental improvements. Considering the Tribe's current labor force, land use opportunities, along with natural resource exploitation, there could easily be developed a diversified economic plan. However, Congress must support these efforts in the following ways:

First, an expedited land acquisition process that allows Tribes to secure contiguous and non-contiguous lands into trust for the purpose of developing diversified revenue-generating projects. To make Tribes wait years for land acquisition approval from the Federal government, similar to what Tribes face in land acquisitions for gaming purposes, will not work. Second, offer increased authority for Tribes to initiate bond offerings as a way to subsidize initial start-up costs for developing economic ventures. Such authority should also extend to allowing third party investors to help underwrite the Tribe's bond initiative, which may help a Tribe to gain premium ratings on their outstanding debt and reduce interest rates on primary and secondary loan paybacks. Third, offer tax and investment incentives, such as tax-free capital gains on interest generated from the financing of Tribal development projects by private investors. Fourth, allow increased accelerated depreciation of equipment, taking the current 2 years-to-1 depreciable rates up to a 3 years-to-1 depreciable plan for economic development projects created on Tribal lands. Fifth, provide Federal-funding incentives to States and local governments that actively and fully negotiate cost sharing of Indian economic ventures that will directly benefit non-Indian communities, as well as the Tribal community, once fully operational. Such non-Indian benefits may include the creation of jobs, along with program and service delivery in industries that are currently unavailable in the region as a whole.

Some ideas that have been considered by LVD include the development of guided hunting and fishing excursions for the upper echelon sportsmen who are accustomed to spending considerable dollars for high quality trophy hunts and fishing expeditions, complete with first class lodging, meals and other amenities geared toward the wealthy sports enthusiast, which the Tribe already has in its hotel/casino facilities. In addition, thoughts have also been put towards creating a pre-fabricated log-home building company, similar to other log-home builders in nearby towns throughout the Upper Peninsula. This market seems to be growing in the Great Lakes region and is one that the Tribe could utilize a Tribal workforce for its labor needs, creating skill-based jobs for many Tribal members. With the current Tribal labor force geared primarily toward the construction industry, this may be a viable economic venture that could span from tree harvesting to finished home setups.

**Statement of Chairman McGeshick, Lac Vieux Desert Tribe
MAST Hearing, Senate Committee on Indian Affairs
June 19, 2001 -- Page 3 of 6**

By providing tax credits for investors willing to invest in projects on Indian lands, providing for the issuance of tax-exempt bonds by Tribal governments, and further funding Indian empowerment zones grant funding, Congress and the Administration will help to ensure that Indian Country is provided the appropriate tools to create sustainable economies and reach the ultimate goal of economic self sufficiency for all Tribal governments.

Law Enforcement – A key principle of the Federal-Tribal relationship is protecting and encouraging Indian self-government. To achieve self-determination, Tribes require a long-term Federal commitment and adequate funds to develop self-government, an economic base, and social and educational institutions that enable them to benefit from America's prosperity and preserve their cultural heritage. A key component to this goal is adequate police and other law enforcement protection services and facilities throughout Indian Country. The prior Administration proposed a multi-agency initiative to accelerate law enforcement efforts in Indian country, including the strengthening of core law enforcement functions such as increasing the number of criminal investigators, uniformed police and strengthening basic detention center services.

Parallel with Interior efforts, the Department of Justice also sought to create law enforcement programs on reservations, such as drug testing and treatment, juvenile justice, and assistance to Tribal courts. These initiatives responded to severe, long-standing deficiencies in the provision of law enforcement service in Indian country that has reached a crisis level. This crisis is evidenced by the homicide rate on Indian lands that has soared by 87 percent in the last five years, even as the homicide rate declined nationwide by 22 percent. Many Tribes throughout Indian country lack adequate funding to provide a basic level of security in their communities, such as 24-hour police force coverage and protection. In addition, many police units on reservations lack the technical and human resources they need to ensure their own safety. Overall, crime has become a serious hindrance to Indian Tribes' efforts to achieve meaningful self-governance and ensure peace and stability in their communities.

In discussions with LVD's Police Captain, Mike Hazen, it was learned that the Tribe has spent well over \$700,000 in constructing the Tribe's current Tribal Police Headquarters. In addition, over \$867,072 in Tribal contributions was dedicated to the LVD law enforcement program over the past five fiscal years. It is my understanding that the Tribe, based upon promises made by the U.S. Departments of Justice and Interior that supplemental program funding would be forthcoming, approved much of these expenses. As I have been informed, however, no additional Federal funding has been received by the Tribe to date, and without an immediate influx of Federal program dollars, the Tribe's Police Department will not be able to meet its expectations of providing appropriate law enforcement and protection to the Tribal community.

I have asked the Tribal Police Department, along with the Tribe's Chief Financial Officer to provide me with as much statistical information as available (detention and deterrence program

**Statement of Chairman McGeshick, Lac Vieux Desert Tribe
MAST Hearing, Senate Committee on Indian Affairs
June 19, 2001 -- Page 4 of 6**

needs, crime rates and financial cost breakdowns) so that we at LVD can begin to compile a report to Congress, the DOJ and the DOI that will justify much needed law enforcement funds for LVD's Police Department and law enforcement program to flow from Federal sources. Along these same lines, LVD will put together justification statements based on forthcoming information from the Tribe's Office of Chief Justice, on Child Support Enforcement (CSE) needs, juvenile detention needs, alcohol and substance abuse prevention needs (I.e., Tribal DARE, AA and NA programs) and other related program needs that seek to deter crime rates, incarceration needs, domestic violence, suicide and teen pregnancy. Our goal at LVD is to secure the necessary support from these Federal agencies to utilize our newly constructed police facility for the benefit of Indian and non-Indian citizens throughout the entire region of Gogebic County, Michigan.

Health Care – The Indian Health Care Improvement Act, P.L. 94-437, (IHCIA) was first enacted in 1976, to address long-standing deficiencies in Indian health care; to increase the number of health professionals serving Indian communities; to authorize services to urban Indian populations; to rectify health facility problems; and to provide access for Indian patients to other Federal health resources such as Medicaid and Medicare. The IHCIA has been reauthorized four different times incorporating numerous other amendments over the years. The IHCIA provides comprehensive directives to the Federal government with regard to Indian health, and along with the Snyder Act of 1921, provides overall guidance and authority for the programs of the U.S. Indian Health Service (IHS).

The IHCIA expired at the end of FY2000, but was given a one-year funding allocation by Congress last year as a temporary stopgap, until Congress could fully deliberate the reauthorization of this critical health care legislation and provide a long-term reauthorization plan. IHCIA reauthorization legislation has been introduced in both chambers of Congress this year, where it currently awaits further action. With two Senate committees and four House committees having referral over these bills, we anticipate deliberations over the IHCIA to take up most of the 107th Congress.

In the past six years, LVD health care services have increased each of those years substantially, with the costs for operating the Tribe's health clinic increasing as well. Currently, the Tribe receives more health care funding through third-party billing of Medicaid, Medicare and private insurance companies for services rendered to Tribal member and non-Tribal member patients served in the Tribe's health care clinic, than they do from the Indian Health Service (IHS) for medical care provided to its current service area population. Although diabetes rates have dropped slightly in recent years, mainly due to improved diabetes prevention measures, the diabetic "at-risk" population of the Tribe is getting older. With this phenomenon comes the likelihood of increased diabetes amongst the Tribe's "at-risk" population, as well as increased health complications stemming from diabetes. Currently, two Tribal members must travel up to 160 miles, round-trip, three times a week to receive dialysis treatments in order to survive.

**Statement of Chairman McGeshick, Lac Vieux Desert Tribe
MAST Hearing, Senate Committee on Indian Affairs
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One of the most immediate needs of the Tribe, as well as the entire region, is to secure a dialysis system (machine and medical service personnel) at the Tribal health clinic. Moreover, the need for such a dialysis program will only increase over time and therefore, LVD asks that Congress direct the IHS to immediately make available the necessary funding for the Tribe to secure funds for this critical medical need. In addition, the Tribe asks that Congress direct the IHS to fund a feasibility study on the development of an Emergency Medical Center as part of LVD's health clinic. When considering the proximity of the Tribe and surrounding non-Indian communities being at least 60 miles from the nearest part-time emergency medical center, the need for such a facility to serve not only the Tribal population, but also the entire population of the region, seems appropriate.

I have asked that the Tribe's health care department compile health statistics on the current service area population, health care program and service cost associations, along with projections as to the increased health care needs of the Tribe's service area population over the next ten years. Once this information is compiled, we will use it to create a justification report to Congress and to the Administration on increasing the Tribe's Federal health care funding, as well as ways in which the Tribe can partner with the State and Federal health care agencies to better serve its current and future health care service area population.

Education – LVD, like most Tribes in the country, receive only a fraction of the Federal education dollars they need to operate adequate Tribal education programs. Currently, LVD operates most of its education support programs through a two percent (2%) set aside of Tribal gaming revenues. The Tribe also utilizes Johnson O'Malley funds to enable the Tribe to place a Tribal educator into the public school system to ensure that Indian student attendance and participation in the public education system is appropriately monitored.

The Tribe would like more authority over the way in which Federal "Impact Aid" funding is spent by the State's education system, to ensure that Tribal members attending State-operated public schools receive the same level of education and educational opportunities as do the non-Indian students. In addition, funds must be secured under the President's education improvement plan for after school programs and related educational needs that are currently not being met by the State and Federal public education system.

I have asked the Tribal education director to compile statistical information on the LVD student population in order to develop a justification plan for increased funding and authority for the Tribe under Impact Aid, which will be presented to Congress, as well as the Department of Education's Office of Indian Education and the BIA's Office of Indian Education. Our goal is to secure the best public education environment for our Tribal students that is conducive to their overall education needs and stimulates their desire to continue in their education goals beyond K-12 education.

**Statement of Chairman McGeshick, Lac Vieux Desert Tribe
 MAST Hearing, Senate Committee on Indian Affairs
 June 19, 2001 – Page 6 of 6**

Social Services – One of the greatest needs at LVD and throughout the Great Lakes region is in the area of social services. Although political reality tells us that the area of social services will undoubtedly be one of the least areas of focus by the Administration and Republican-controlled House until the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA, or Welfare Reform) comes up for reauthorization, the need still continues. LVD operates very successful Early Head Start, Head Start and related childcare services through the Tribe's child care/education center. With over seventy children being served from infancy through Kindergarten, the financial and programmatic burdens are evident, yet somehow the center does an incredible job with the little funding it receives.

With the reauthorization of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA, or Welfare Reform) expected this Congress, I have asked our Social Services director to provide me with statistics on the current population being served through the Tribe's center, as well as information on those programs and services that the center would like to begin providing to the entire family of the children currently being served. (I.e., child care, family counseling, supplemental nutrition services, a Boys & Girls Club, increased Early Head Start and Head Start funding, and possible Department of Education Early Learning Program funds to help expand the Tribe's kindergarten program). LVD wishes to work with Congress to develop a plan to improve the programs, services and funding levels for the litany of social service needs that LVD and many other Tribes throughout Indian Country will face in the years to come.

In Conclusion – Chairman Inouye, Vice Chairman Campbell and Members of the Senate Committee on Indian Affairs, this concludes my statement for the record and I will be happy to answer any questions you may have at this time, or through supplemental written form, upon your request. On behalf of the LVD Tribe, I thank you for the opportunity to testify before this Committee today on these important issues.

* * * * *

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Michelle Hazen, Secretary

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John McGeshick Sr.
Robert White



July 10, 2001

The Honorable Daniel K. Inouye
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Re: MAST Hearing Follow Up Response on Tribal Economic Development

Dear Chairman Inouye:

I respectfully submit this follow up response to a question you asked of me during the Senate Committee on Indian Affairs (SCIA) Hearing of June 19, 2001, on the relevant needs of the Midwest Alliance of Sovereign Tribes (MAST). Your question dealt with the issue of Tribal economic development initiatives that were addressed in the Lac Vieux Desert Band of Lake Superior Chippewa Indians' testimony submitted to the SCIA for the June 19th hearing.

As you know, economic development is an area that is one of the most critical for many Tribes. Without viable economic development and economic expansion plans, most, or perhaps no Tribal needs will be met. LVD has done a great job in developing its gaming enterprise, hotel, golf course, restaurant and other economic ventures. However, the need to expand and diversify the Tribe's economy is always at the forefront of the Tribe's governmental improvements. Considering the Tribe's current labor force, land use opportunities and potential for natural resource exploitation, there could easily be developed a diversified economic plan. However, Congress must support these efforts in the following ways:

- First, an expedited trust land acquisition process for contiguous and non-contiguous lands for the purpose of developing diversified revenue-generating projects.

Currently, the process Tribes face in acquiring additional trust lands is long and cumbersome. Moreover, the question of land use has become a significant factor in determining the timeframe and overall outcome of a trust land acquisition application being approved. We feel that it was never Congress' intent to have a fee-to-trust process develop a double standard whereby different criteria are used to determine the approval of an application based on the proposed use of that land by the Tribe. If Congress expects Tribal governments to entice non-Indian investment onto Tribal lands, the fee-to-trust process must be expedited, not impeded. Financiers will not wait

Chairman Inouye, SCIA**Re: MAST Hearing Follow-up Response on Tribal Economic Development****July 10, 2001 -- Page 2 of 3**

around for years to invest in revenue-generating projects on Indian lands due to an overtly complex and time consuming trust land acquisition process. Legislation may be needed to create enforceable deadlines for timely review of trust acquisition requests. Efforts to devote additional resources to the trust acquisition process should be also supported.

- Second, increased authority for Tribes to initiate tax-free bond offerings as a way to subsidize initial start-up costs for developing economic ventures.

Legislation has been introduced in the House this session that would provide this authority. H.R. 2253, Tribal Government Tax-Exempt Bond Authority Reform Act of 2001. This bill amends Subsection (c) of section 7871 of the Internal Revenue Code of 1986 (relating to Indian tribal governments treated as States for certain purposes) to allow Subsection (a) of section 103 to apply to any obligation issued by an Indian tribal government (or subdivision thereof) if such obligation is part of an issue representing 95 percent or more of the net proceeds used to finance any facility located on or in close proximity to an Indian reservation. In the case of an obligation not described in subparagraph (A) (because the facility to be financed is not located on or in close proximity to an Indian reservation), such obligation can be part of an issue for which substantially all of the proceeds are to be used in the exercise of an essential governmental function. We would hope that the SCIA would introduce similar legislation, or support this bill in the Senate.

- Third, increased tax and investment incentives, such as tax-free capital gains on interest generated from the financing of Tribal development projects by private investors.

Many potential investors are weighing the options of investing in Indian Country verses the same investment flowing to non-Indian projects. With the burden of fee-to-trust applications and the myriad of environmental hurdles that Tribes and their investors must wade through just to secure approval to begin development, additional incentives must be offered to these investors that tip the scales in favor of investing in Indian Country. Potential investors have identified tax-free capital gains as one investment incentive that would be hard to ignore if it were available to them. We ask that the SCIA explore the possibility of introducing such a measure as part of an overall economic development expansion package that would help bring non-Indian investment dollars onto Tribal lands.

- Fourth, increased accelerated depreciation of equipment, taking the current 2 years-to-1 depreciable rates up to a 3 years-to-1 depreciable plan for economic development projects created on Tribal lands.

Bi-partisan legislation has been introduced in the House that amends the Internal Revenue Code to permanently extend the Indian employment credit and the depreciation rules for property used predominantly within an Indian reservation. The bill, H.R. 224, awaits action by the Committee

Chairman Inouye, SCIA

Re: MAST Hearing Follow-up Response on Tribal Economic Development

July 10, 2001 -- Page 3 of 3

on Ways and Means. We would appreciate the SCIA improving upon this legislation by increasing the depreciable year rate from 2-to-1 to 3-to-1 for equipment and other property utilized in Tribal economic development projects.

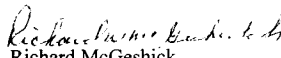
- Fifth, provide Federal-funding incentives to States and local governments that actively and fully negotiate cost sharing of Indian economic ventures that directly benefit non-Indian communities as well as the Tribal community.

One of the historical barriers to expanded revenue-generating projects on Indian lands has been the conflict between the Tribes and the surrounding State and local governments. However, most economic develop projects provide jobs to more non-Indians than Indians living in the region for which a Tribe is located. In addition, municipality improvement projects such as energy generation, roads construction and fire and police services also benefit the surrounding non-Indian communities as much as the Tribal community. Therefore, State and local governments should be extended Federal incentives that will entice negotiations over fair and appropriate cost sharing of such projects that equally benefit Indian and non-Indian communities alike. We urge the SCIA to explore this area of reasoning and develop legislative provisions that advance these concepts.

By providing tax credits for investors willing to invest in projects on Indian lands, providing for the issuance of tax-exempt bonds by Tribal governments, and further funding Indian empowerment zones grant funding, Congress and the Administration will help to ensure that Indian Country is provided the appropriate tools to create sustainable economies and reach the ultimate goal of economic self sufficiency for Tribal governments throughout Indian Country.

I hope that this supplemental response has helped better explain our position on how Congress can improve upon economic development opportunities in Indian Country. If you have any further questions, or need additional information, please do not hesitate to contact me at (906) 358-4577.

Sincerely,


Richard McGeshick,
Chairman

Cc. SCIA Vice Chairman Ben Nighthorse Campbell

Statement of Ruby Camp before the Senate Indian Affairs Committee
Elders Issues -- June 19, 2001

Senator Inouye and members of the Committee:

Good morning. I am Ruby Camp, a member of the Council of the Lac Vieux Desert Tribe, located near Watersmeet in Upper Michigan. Thank you for the opportunity to appear before you on a subject of great importance. I refer to the situation of our elders, the people who gave us life - who showed us the road, helped us when we stumbled, and taught us every important lesson. No matter what our age may be, we owe our existence, the persistence of our heritage, and our birthright to those elders.

Our elders face critical issues in their communities.

The budget for Indian Health Services last year was \$2.4 billion to be shared by all 600 plus tribes in the United States. For this year, the proposed increase is only \$170 million; and that proposal is now facing a 12% -15% decrease. The Indian Health Service spends an average of only \$1400 per person each year, which is expected to cover not only personal health care for individuals, but also public health nurses and other community health personnel and equipment, as well as monitoring sewer systems, wells, and public health hazards in the reservation communities. In contrast, money spent on health care for federal employees in 1998 averaged \$3,300 per person for personal health care alone.

- 47% of Native People live in rural areas, compared to only 27% of the white population-
- 30% of Native Americans have no vehicles-
- 31 % have no telephone;
- and 24% speak no English-

all of which result in isolation.

The National Indian Council on Aging, has identified ten major health concerns of Native people: Alcoholism, Blastomycosis, SIDS, AIDS, Heart disease, Liver disease, Tuberculosis, Cancer, Dental issues, and Obesity.

More Indians die of alcoholism by a proportion of 459% than the rest of the population; more have TB by 233%; and more have diabetes by a factor of 157%. Diabetes has reached crisis proportions in Indian country, and Native Americans have a higher rate of complications than the general public. One out of every five Native Americans is diabetic, and in some families, every member is affected.

58.5% of Indian elders have an income level below 200% of the FPL (Federal Poverty Level). The average education is below the sixth grade, and most do not understand the basic benefits available. Nevertheless, there is very little money available for education and counseling.

The Indian Health Service collects data concerning the health needs of Indian communities. However, a simple request for information may take up to a year or more to be returned. This may partially be due to the small amount of funding the IHS receives compared to the enormity of their tasks and the large number of clients they have to serve. In fact, 157,000 Medicaid-eligible Indian elders have not applied, compared to an enrollment rate of 87% among non-native elders.

Though not instantly life threatening, funding for dentistry, removal of cataracts, education and prevention of chronic diseases, support groups, in-home care, and home visits are often neglected. This does affect the quality of life, independence, and self esteem of many people and generates a cycle of dependency that is difficult to overcome for many generations.

These statistics are all the more alarming because they remain at such high levels. Advances in medical technology, improvements in transportation, access to care, and efforts at community health education take a long time to trickle down to the rural areas, and take even longer to reach the struggling reservation communities. Simply put, quality health care on or near the reservations is an expensive necessity. More funds are needed.

There is no entity other than the National Indian Council on Aging that deals with Indian Elders issues. State agencies on aging are not responsive to the particular needs of the reservation communities. Our area elders have no regional organization to carry through and pay attention to issues of importance to them. Help us create that organization by supporting these efforts and appropriating funds for regional and local health care advocacy.

Senators, the general level of under-funded health care for Native Americans is a national problem. The particular needs of Native American elders, however, take this beyond the realm of "problem" and into the realm of "action needed now." It is my sincere hope that you will do your utmost to address this, and to help us do a little for those who have done so much for us.

Thank you.

TESTIMONY OF MIKE CHRISTENSEN, COUNCILMAN
 LAC DU FLAMBEAU BAND OF LAKE SUPERIOR CHIPPEWA INDIANS
 BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS
 PRIORITIES FOR THE 107TH CONGRESS
 JUNE 19, 2001

Chairman Inouye, Vice Chairman Campbell, and members of the Committee. I am Mike Christensen, Councilman from the Lac du Flambeau Band of Lake Superior Chippewa Indians, from Wisconsin. I greatly appreciate the opportunity to testify here today – and I applaud the Committee's efforts to reach out to hear from Tribal leaders from all parts of the United States regarding our concerns and priorities. I would like to address a topic of great importance – trust lands.

As the Committee is aware, Indian tribes have always had a special connection to our lands. This connection touches all parts of our lives – as our lands have cultural, spiritual, subsistence, historic and economic importance to us. The lands we live on, and the natural resources derived from those lands, help to define who we are as a people. Preserving those lands, and assuring a viable homeland for our people, is one of our greatest challenges for the future.

Like many Tribes, Lac du Flambeau has suffered the loss of a substantial part of the land that was promised to us by the United States and set aside for us as our Reservation. Our Reservation was allotted – which resulted in the loss of a significant portion of our lands, including most of the desirable shorelands around the lakes in our Reservation. Today more than one-third of our Reservation lands are held in fee by non-Indians. Trust and fee lands are mixed together throughout many parts of the Reservation in ways that basically make it impossible for the Tribe to protect and use those lands effectively. The checkerboard land pattern on our Reservation is one of the greatest obstacles to our ability to achieve our goals of self-determination and self-sufficiency.

In addition to the loss of trust lands, at Lac du Flambeau the allotted lands that remain in trust are heavily fractionated. We have a serious heirship problem, which creates difficulties in making effective use of a major portion of our trust lands. To begin to address this, Lac du Flambeau is one of the tribes participating in the BIA's Land Consolidation Project – under which we are seeking to purchase for the Tribe some of the most heavily fractionated interests in trust land. We believe these kinds of efforts – to purchase and restore fractionated tracts to Tribal ownership – is important and should be expanded. We urge the Committee to support increased funding for the Land Consolidation Project. We would also like to thank the Committee for its leadership last year in enacting amendments to the Indian Land Consolidation Act, to provide greater opportunities to address the fractionated heirship problem.

Beyond measures to deal with fractionated heirship, we need an effective way to purchase fee lands and have those lands put into trust. Restoring fee lands to our Tribal trust land base is a

key part of our efforts to move from the harmful consequences of allotment to the promise of Self-Determination.

Unfortunately, the existing process for taking lands into trust has not served tribes well. One major problem has been that tribal applications to have lands taken into trust have not been processed by the BIA in a timely manner. At Lac du Flambeau, we have several fee to trust applications pending before the BIA. These applications all address trust acquisition of lands on our Reservation, and many are not even controversial. But these applications have been pending for years -- some dating as far back as 1989. The BIA provides us with no reason for this delay -- and no excuse would justify this kind of treatment. It is fundamental that we are entitled to a timely decision on our trust land applications. The bottom line is that the current system for administering fee to trust applications is not working properly.

Taking land into trust is important for both historic and current reasons. On the historic side, Congress provided authority to the Secretary to take land into trust for tribes in Section 5 of the Indian Reorganization Act. That statute was landmark measure, which Congress enacted in 1934 to address the terrible decline in tribal life in the United States that was caused by the allotment policy. Allotment led to the loss of more than two-thirds of Indian lands nationwide, and left Indians facing terrible conditions of poverty and despair. The IRA was an effort to change federal policy, by ending allotment and moving toward a policy of tribal self-sufficiency. Congress recognized that a key part of this new policy was helping tribes restore some portion of the lands that had been taken from them. Basically, the fee to trust process contained in the IRA is a modest effort to provide a remedy for a major historical wrong that occurred as a result of the federal policy of allotment.

In terms of current need for trust lands, tribes have a wide variety of interests. Tribes have a historic interest in lands where their ancestors lived -- and practiced their way of life by hunting, fishing and gathering. Tribes have a cultural interest in areas where religious or burial sites are located. Tribes have self-government interests in having lands sufficient to provide housing, schools, health care facilities and other tribal services for their people. Tribes have economic interests in advancing the opportunities for their people to work and thrive. And tribes have conservation interests, in protecting their natural resources from unwanted development. Tribes need the ability to acquire fee land and have it placed in trust for all of these reasons. At Lac du Flambeau, for example, the vast majority of our trust land acquisitions are for two purposes. First, we are seeking to acquire lands for housing for our people. And second, we are seeking to acquire lands in trust for conservation purposes -- to protect our forests and other natural resources for future generations.

We are aware that sometimes the fee to trust process becomes controversial. We think the process, if better understood, would not be so controversial. There are important historical reasons why Congress authorized land to be taken into trust for tribes. Trust land acquisition today must be understood as a process for addressing the wrong that the federal government did to the tribes under the allotment policy. There are also important current purposes for tribes to take land into trust -- purposes that are essential for us to move toward self-determination and self-sufficiency. Trust land

acquisition is not – as some opponents argue – just about gaming. Instead, trust land acquisition is about enabling tribes to address their historic, cultural, economic, self-government and conservation interests by obtaining some small part of the lands they need to move forward. This ability to acquire lands for a broad range of positive purposes is one of the most important challenges facing tribes today.

As the Committee is aware, there are new final regulations regarding the fee to trust process. The Interior Department published those regulations in final form on January 16, 2001. The new Administration has delayed the effective date of those new regulations, and has asked for comments on them. Those comments were due last Friday (June 15th). The Department has indicated that it will determine whether to go forward with the new regulations by August 13th.

We would like the Department to go forward with the January 16 regulations and make them effective. We see three major benefits from the new regulations.

First, the new regulations carry out the purposes of the Indian Reorganization Act, by providing a process for taking land into trust, as a way to advance tribal self-sufficiency. The new regulations are consistent with the principle that taking land into trust is necessary for tribes to be able to improve the lives of their people.

Second, the new regulations provide clear standards for taking lands into trust. This is important to be sure that the process is fair and applied evenly.

Third, the new regulations provide for an open and fair process in which the views of all sides are heard, and they require the Department to make a decision by a fixed deadline. As I indicated, the delay in trust land applications has been a very frustrating issue for tribes. The new regulations impose a deadline of 120 days for the BIA to act on trust land applications.

There are some things we did not like in the new regulations. For example, the new regulations do not provide favorable treatment to lands that are contiguous to a Reservation. In our view, the acquisition of contiguous lands is in many instances the best (and in some cases, the only) opportunity for tribes to undertake land acquisition in an economically useful manner. The regulations should not make it burdensome for tribes to make such acquisitions. In fact, one of Lac du Flambeau's current efforts to acquire lands in trust shows that it is unreasonable to treat contiguous lands in the different manner than on-reservation lands. At Lac du Flambeau we are seeking to purchase and have taken into trust a parcel that is partially on the reservation, and partially contiguous to the Reservation. This is one parcel, and the on-reservation and off-reservation use of the parcel would be the same -- for a cranberry farm. From any reasonable standpoint, this parcel should be treated as an on-reservation parcel. The same is true more broadly with regard to contiguous lands.

In any event, although the new regulations are not in all respects what we would like, we think overall they are reasonable and beneficial and should be implemented. The new regulations

were the result of a long decisionmaking process by the Department, and they are balanced and fair. We have waited a long time to gain some certainty regarding this area, and it is time for the new regulations to become effective, so the tribes can move forward in their efforts to restore their lands.

We would very much appreciate the Committee's help in assuring that an effective process is available to the Tribes for taking lands into trust. We hope that the Committee will express to the Interior Department the importance of this issue to the Committee, and to Indian country. We hope that the Committee will indicate its support for making the new regulations effective – as a step toward a better process for taking land into trust. And we hope that the Committee will make sure that the results of the current review of the regulations by the Department results in a fair process that will help us achieve our self-determination goals. We trust that after the Department makes its determination on August 13, the Committee will review that decision and consult with the Tribes about whether additional action is needed.

Again, my thanks to the Committee for your continued support of Indian country. I appreciate the opportunity to be here and I look forward to working with the Committee on the trust lands issue.

STATEMENT PRESENTED BY ALFRED TREPANIA, PRESIDENT, THE GREAT LAKES INTER-TRIBAL COUNCIL TO THE SENATE INDIAN AFFAIRS COMMITTEE

EDUCATION ISSUES – JUNE 19, 2001

Thank you for the opportunity to present this statement. My name is Alfred Trepania. I am the President of the Great Lakes Inter-Tribal Council.

For the tribal nations represented by the Great Lakes Inter-Tribal Council, education remains our strongest hope for strengthening our capacities to address the serious issues, which our communities must face. For our tribes, education also remains our strongest hope for sustaining our values, languages, traditional knowledge, and our understanding of the place of humans in the natural world.

Many of our educational institutions – tribal schools, charter schools, and tribal colleges – are working to prepare for our future by building on our rich cultural and intellectual inheritance. This approach is gradually yielding some successes:

- Over time, the success rates of Indian students attending tribal schools are increasing.
- Students who have dropped out are returning in increasing numbers to obtain their high school equivalency diplomas
- During their years in school, more and more Indian students are becoming computer-literate, participating in science fairs, and enjoying courses in field biology and other natural sciences.

These successes, in turn, are helping our communities to prepare for the next set of challenges we must address. Our tribal economies depend to a great extent on tourism

and the careful management of natural resources. Our daily lives depend on good transportation linkages, safe drinking water, and on dependable supplies of fuels and electrical power. Many of our tribal members rely on fish and wild game for significant parts of their diet.

But the balances of nature in the Great Lakes region are shifting – in some cases dramatically. These changes, in turn, affect our economies and our daily lives. Declines in the water level of Lake Superior affect pollution levels and access to transportation. Declines in annual snowfall affect winter recreation, alter the water table, and may soon affect fish and wildlife populations. Increasing temperatures affect our forests and agriculture, open our natural environments to invasions of new species, and may begin to affect the health of our elders and other vulnerable groups. And the increasing frequency of intense storms, wide swings in temperature, and other dramatic weather events affects our community infrastructure – water supplies, roads, sewage treatment facilities, and electrical power.

Education is one way in which our communities are preparing to address the issues created by these changes. Tribal colleges in the Great Lakes region are building strong programs in the biological sciences, forestry, and natural resource management. The College of the Menominee Nation offers a degree program in forestry, which is based in the detailed knowledge of local environments, which the Menominee Nation has acquired through a numerous years of successful forest management in the same location. This knowledge, and the values on which this success is based, are combined with contemporary scientific analyses and management approaches. This combination of tradi-

tional knowledge and values with contemporary science strengthens the Menominee Nation's abilities to adapt successfully to rapid environmental and economic changes.

Lac Courte Oreilles Ojibwa Community College has developed a strong educational program, which uses contemporary geographic information systems technology to assist the tribe in mapping and analyzing reservation resources in close detail. This same technology has contributed to the development of a successful rural transportation system, which serves the entire tribal community.

The tribal colleges in the Great Lakes region contribute to their communities in other ways as well. Tribal college faculty serves as judges for local science fairs. Students from local high schools take tribal college courses even as they are still completing their high school years. Summer programs offer special training for younger students, and likewise give them a chance to participate in life on a tribal college campus. Tribal college faculty and staff frequently provide technical assistance to agencies and programs of tribal governments. The libraries of tribal colleges are frequently the only libraries available to most reservation residents. And a recent study by the American Indian Higher Education Consortium indicates that tribal communities with tribal colleges have higher work-force participation rates than comparable tribal communities that lack their own colleges.

With all of these success stories, however, we still have a long way to go. Tribal schools need to slow down the turnover rates for faculty and administrators. The schools need qualified science teachers, and teachers who understand and communicate the values of the tribal communities they serve. The urgent needs for large numbers of Native teachers have still not been addressed. Tribal schools need resources for science labs and

library resources. The schools need resources to offer innovative programs after school and in summers to reinforce the astonishing talents and gifts of their students.

Tribal colleges likewise need assistance. Education and research programs in the natural and environmental sciences are expensive – they require faculty with appropriate degrees and qualifications, libraries with access to appropriate journals and reference materials, and laboratories and field sites with appropriate equipment. Yet tribal colleges continue to receive basic operating funds from the federal government at a rate of less than half the dollars, per student, that states provide to their own two-year colleges, and much less than the amounts provided to four-year institutions.

Education is important to our tribes. Our students are eager to succeed. We request, therefore, that you examine both our successes and our needs. We request that you provide us with the support we require to continue to develop educational institutions of the depth and quality, which our communities need, and our students deserve. We, like you, intend to leave no child behind – and we expect and intend to leave no adult or tribal community behind. We have already accomplished much; we request your help in doing much more.

UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS

OVERSIGHT HEARING

to receive testimony on the goals and priorities of the member tribes of the
Midwest Alliance of Sovereign Tribes/
Intertribal Bison Cooperative
for the 107th Congress

June 19, 2001

**Testimony of the
Sault Ste. Marie Tribe of Chippewa Indians
Concerning Natural Resource Issues**

Mr. Chairman, distinguished members of the Committee, my name is Aaron Schlehuber, an attorney for and member of the Sault Ste. Marie Tribe of Chippewa Indians. The Sault Tribe, for itself and behalf of the other MAST tribes, wants to share with you some concerns in the area of natural resources.

Many MAST tribes, including the Sault Tribe, are located on the shores of one of the most precious natural resources on the planet – the Great Lakes, which hold about 20% of our fresh water. Many MAST tribes, like us, have a unique interest in this resource, because we possess treaty fishing rights in various portions of the Great Lakes. Five Michigan tribes, including the Sault Tribe, have rights in portions of Lakes Superior, Michigan, and Huron under an 1836 treaty. Other tribes, in Minnesota and Wisconsin, have fishing rights in Lake Superior under treaties signed in 1842 and 1854. These rights have been recognized and exercised for many years. They remain an important

source of livelihood and subsistence for tribal members, as well as a connection to the wellspring of our traditional culture.

Last year the treaty tribes of Michigan concluded a 20 year agreement with the state and federal governments on the exercise of treaty fishing rights and on fisheries management on the Great Lakes. Recreational fisher groups, the Michigan Chamber of Commerce, and other interested groups participated in the negotiations, and all governments and user groups who share the resource supported the accord. Today, however, this careful balancing of interests is threatened by environmental impingements on the fishery. The fishery resource is imperilled on a number of fronts: threatened water diversion, lateral drilling, polluted sediment, tainted fish, continuing point source pollution, to name a few. Some of these issues are addressed in the written materials submitted with this statement. But today, in the short time allotted, we want to flag one crucial problem, one created by the federal government that the federal government up to now has done little to help solve: the introduction of exotic (non-indigenous or non-native) species.

The St. Lawrence Seaway was undoubtedly an economic boon to the Great Lakes basin. But it opened up an avenue for the invasion of many exotic species (and human pathogens as well). A Great Lakes Fishery Commission study shows that at least 136 exotic species have invaded the Great Lakes, and that 10% of these have had serious impacts. The most infamous of the invaders is the sea lamprey, which wreaked havoc on native fish stocks, especially lake trout. Five decades later, despite a massive control effort, the lamprey remains a serious threat to native fish species and an expensive pest to control.

A primary vector for the introduction of exotic species is the ballast waters of "salties," ocean-going vessels that enter the Great Lakes. Foreign species are picked up for the ride when these ships

take in ballast water and are dropped off in the Great Lakes when the ballast water is discharged. Ballast water has been the culprit in introducing a number of exotics. The most recent example is the zebra mussel, which is rapidly changing lake ecology by coating the lake bottom, disrupting the food web, displacing native species, and filtering out nutrients upon which other species depend.

Zebra mussels have been implicated in a disturbing recent development: the rapid decline – in some areas, the total disappearance – of *Diporeia* for Lakes Michigan and Huron. This small bottom dwelling organism was an abundant and essential food for whitefish and other major species, a key link in the lake food chain. Its decline threatens to produce a sharp decline in the fishery, perhaps an ecological disaster.

The federal response to the ballast discharge problem to date has been at best delay and temporizing. The EPA continues to ignore its responsibility to regulate ballast water discharge. After a decade of study, the Coast Guard has only recently published for comment a statement of suggested approaches to setting ballast water standards, a long march from actual regulation. This despite the fact that Congress mandated regulations several years ago in the National Invasive Species Act. It appears that the powerful shipping industry has thus far succeeded in thwarting any meaningful regulation of ballast discharge.

Congress must step in and deal forcefully with this issue. Fortunately, within the last several weeks there has been bipartisan movement on this issue. Rep. Hoekstra (R-MI) has introduced H.R. 1680, and Sen. Stabenow has introduced S. 1034 (just last week). These twinned bills have each garnered 12 cosponsors, including Sen. Wellstone of this Committee. The bills would require the promulgation of Coast Guard regulations which would assure that vessels entering the Great Lakes do not discharge ballast water that introduces or spreads nonindigenous aquatic species and that

ballast water and its sediments be treated by the most effective techniques now available and to be developed in the future. We urge the members of this Committee to support that legislation.

Congress must do more, however. It should require the EPA accept its responsibility to prevent future introductions of exotics, and it must support a program to develop and implement remediation to remove or ameliorate the effects of the exotics like zebra mussels that are already ensconced in the Great Lakes.

The cost of failing to control the introduction of exotics is staggering. This includes direct federal outlay, as in the lamprey control effort. It also involves indirect, more local costs, such as the need to continually clean municipal water intake pipes, or the need to remove manually the purple loosestrife that threatens to choke wetlands. The shipping industry has evaded controls which would have come long ago in another context. Ask yourselves this question: If there were an oil or chemical spill on the Great Lakes that caused even a fraction of the harm caused by exotics, how would federal regulators and Congress have responded?

In the treaties of 1836, 1842, and 1854, the federal government promised various tribes that their right to commercial and subsistence fishing in the Great Lakes would continue. A century later, the federal government opened a broad avenue for invasion of the Great Lakes by harmful exotic species, and that invasion threatens the fishing rights secured by treaty. The federal government has a clear responsibility to end the threat and clean up the damage done. This is a duty owed the treaty tribes and all citizens of the Great Lakes basin.

**NATURAL RESOURCES LEGISLATION
OF INTEREST TO MAST TRIBES**

Ballast Water

Great Lakes Ecology Protection Act

HR 1680

introduced by Rep. Hoekstra on 5/3/01
12 cosponsors (MI - Barcia, Ehlers, Rogers, Upton, Camp, Stupak)
House Transportation and Infrastructure
No committee action yet

S 1034

introduced by Sen. Stabenow on 6/13/01
12 cosponsors (MI - Levin)
Commerce, Science and Transportation
No committee action yet

These bills require the issuance of Coast Guard regulations under the National Invasive Species Act to assure that vessels entering the Great Lakes do not discharge ballast water that introduces or spreads nonindigenous aquatic species and to treat ballast water and its sediments through the most effective and efficient technologies available, now and in the future. The house bill would require publication of proposed regulations within 120 days of passage and final regulations within 270 days of passage, to be followed by regulations concerning innovative technologies within 720 days of passage. The Senate bill is similar to the House bill, but the text is not yet available for comparison.

The importance of these bills to the tribes is discussed in the testimony.

Conservation Funding

Conservation and Reinvestment Act (CARA)

HR 701

introduced by Rep. Don Young on 2/14/01

196 cosponsors (MI - Bonior, Kildee, Levin, Barcia, Camp, Conyers, Dingell, Ehlers, Upton)

Resources

no committee action yet

no similar bill has been introduced in the Senate

This bill was introduced last year and passed the House by a wide margin in May 2000, and made it through committee in the Senate, but it was blocked from the Senate floor and died. The legislation would be the largest conservation funding measure in history. It takes offshore oil and gas leasing revenues, about \$3 billion per year, and spends the revenues on a variety of conservation measures across the country. A watered down version of CARA, "CARA Lite" was passed last year, but all tribal allocations were stripped from it, leaving tribes with nothing for their conservation needs.

This year's house bill incorporates the proportional funding for tribes that was stripped out last year. For example, under the bill 2.25% of the wildlife conservation and restoration funds would be set aside for tribes. This is proportional funding because it is derived from the ratio of federal Indian trust lands to the total land area of the United States.

This legislation is crucial to most MAST tribes, which have extensive resource management responsibilities over reservation lands and fisheries resources. These functions benefit non-Indian visitors to reservations or users of the Great Lakes as well as tribal members. Some unique ecosystems are within tribal lands and are managed for the benefit of all, such as the Kakagon Sloughs on the Bad River Reservation in Wisconsin and the Red Lake area on the Red Lake Reservation in Minnesota. The proportional funding approach in the House bill would at last provide management and restoration funds to tribes proportional to the tribes' responsibilities.

Last year there were a number of differences between the House and Senate bills, and substantial changes affecting tribes were made during the legislative process. Tribes want CARA to be enacted, and to include the funding allocations to tribes commensurate with their need and responsibility.

Safe Drinking Water**Small Community Drinking Water Funding Act****S 503**

introduced by Sen. Reid on 3/9/01
 9 cosponsors (MI - Stabenow)
 Environment and Public Works
 no committee action yet

HR 1178

introduced by Rep. Jim Gibbons on 4/2/01
 14 cosponsors (MI - Stupak)
 Energy and Resources
 no committee action yet

These identical bills would amend the Safe Drinking Water Act to add an EPA program to assist small communities in meeting the applicable national primary drinking water standards at reasonable cost. A separate section of the bill governs grants to Indian tribes, and 3% of the total funding available is allocated to the tribal program.

Small rural communities have struggled with the problem of providing safe drinking water at a reasonable cost. The problems are especially acute for some tribal communities, which are in remote areas and have difficult and costly infrastructure problems. This bill would help tribes and other small communities to provide safe drinking water.

Great Lakes Sediment Pollution

Great Lakes Legacy Act

HR 1070

introduced by Rep. Ehlers on 3/15/01

2 cosponsors(MI - Barcia)

Transportation and Infrastructure *and* Science

no committee action yet

no comparable bill in the Senate

This bill would amend the Water Pollution Control Act to authorize EPA to make grants for the monitoring, evaluation, and remediation of sediment contamination in the Great Lakes. The bill requires a non-federal match of at least 35% (in-kind included). Indian tribes are eligible for grants.

There is a particular problem with sediment contamination in the Great Lakes, and especially in Lake Michigan, which is a human health issue. Contamination of the lakes by PBBs, PCBs, dioxin, metals, and other harmful substances has led to contamination of fish in the lakes. This has led to a series of consumption advisories on popular sport fishing species like salmon and lake trout and primary commercial species, including whitefish and lake trout. Considerable progress has been made in reducing the sources of these contaminants. However, these contaminants persist in the environment and are contained in the sediment on the lake bottoms, where they reenter the food chain when the sediment is disturbed.

The problem here is similar to that of exotic species and ballast water. It is not sufficient to eliminate the source of future contamination. It is also necessary to deal with the problem of the legacy of past pollution. This bill addresses that issue.

The issue is one of particular importance to treaty fishing tribes. Just as exotic species pose a threat to the fishery, so too does sediment pollution. Dealing with this problem would help to assure that fish caught for commercial, subsistence, and recreational purposes would be a wholesome food source that can be enjoyed by the generations to come.

Great Lakes Oil and Gas Drilling

S 1033

introduced by Sen. Stabenow on 6/13/01
 12 cosponsors (MI - Levin)
 Environment and Public Works
 no committee action yet

HR 2167

introduced by Rep. Bart Stupak 6/13/01
 31 cosponsors (MI - Bonior, Conyers, Barcia, Dingell, Kildee, S. Levin)
 Resources
 no committee action yet

These identical bills would prohibit any drilling activity, including slant or directional drilling, to extract oil or gas from submerged lands in any of the Great Lakes until a study on such drilling has been completed by the National Academy of Sciences on the environmental impact of such drilling.

All eight states bordering the Great Lakes prohibit offshore drilling from rigs in the Great Lakes. Michigan, however, allows drilling for oil and gas underlying the Great Lakes from on-shore wells (slant or directional drilling). A few permits for such drilling have been issued in Michigan, and the state is considering issuing additional permits.

The consequences of a mishap from such drilling could be disastrous to the fishery and the ecosystem. It is prudent to study the issues before such drilling is allowed.

Fisheries Habitat

Fishable Waters Act

S 678

introduced by Sen. Bond

1 cosponsor

Environment and Public Works

no committee action yet

HR 325

introduced by Rep. Tanner

27 cosponsors (MI - Dingell)

Transportation and Infrastructure *and* Resources

no committee action yet

These bills, which are similar but not identical, would amend the Water Pollution Control Act to establish an Interior program of grants to states to carry out approved fisheries habitat protection, restoration, and enhancement program. Tribes are treated as states for purposes of funding eligibility.

Great Lakes Resource Protection

S 1035

introduced by Sen. Stabenow on 6/13/01

8 cosponsors (MI - Levin)

Banking, Housing and Urban Affairs

no similar bill in the House

This is a bill to establish programs to protect the resources of and areas surrounding the Great Lakes. It was just introduced and the text is not available through *Thomas* yet.

TESTIMONY FOR THE SENATE COMMITTEE ON INDIAN AFFAIRS
JUNE 19, 2001 HEARING
SUBMITTED BY THE

MINNESOTA CHIPPEWA TRIBE

The Minnesota Chippewa Tribe appreciates this opportunity to present our concerns and insights to this esteemed Committee. There are several environmental quality issues that we choose to expound upon at this time.

The first of these concerns is the unmet needs of Tribes regarding hazardous substances and contaminants. Federal support to Tribes through the United States Environmental Protection Agency (USEPA) and Bureau of Indian Affairs (BIA) needs to be strengthened. Our self determining capacities are improving in the environmental quality area, thanks to USEPA programs such as the General Assistance Program (GAP), 106 programs under the Clean Water Act, and Clean Air Act monitoring. BIA water and environmental quality programs are also of benefit to many Tribes, but the waiting list for program funds is long, and many years may pass before problems can begin to be addressed. The more we study the quality of our environment, the more it becomes clear that our efforts must be intensified if we are to restore and protect the environmental quality which will support a healthy lifestyle. As evidence of our concern, I have enclosed my May 16, 2001 letter to U.S. President George W. Bush concerning the contaminant dioxin. After reading this letter I trust that the Committee will gain understanding of our health and welfare dilemma. Many contaminants, such as dioxin, mercury, and PCBs, may be found in wild and domesticated foods. We need to know the contaminant levels in our major food sources in order to intelligently communicate these involuntary risk factors to our Tribal members, thereby providing them the opportunity to make the most healthy food choices. Federal legislative funding increases in these critical environmental quality program areas will advance Tribal monitoring and research which is crucial to protecting the health and welfare of Tribes. Further, we ask the Committee's support for the proposed USEPA Independent Tribal Science Advisory Board. This Board would ensure that any Federal environmental quality research potentially impacting Tribes is designed in a manner appropriate for evaluating Indian cultural and traditional practices and lifestyles.

The second item for discussion is the need for the reauthorization of the Federal Superfund law, Superfund Amendments and Reauthorization Act (SARA). This law provided a fund for assessing and cleaning hazardous and toxic contaminant sites through a levy on the producer's of hazardous and toxic substances. Federal legislation reauthorizing the Superfund "fund" has not been forthcoming in recent Congressional sessions. It is estimated that the fund will be out of money in the coming year, just as Tribes are beginning to thoroughly investigate contaminated sites in their impact areas. It will indeed be a travesty if the Federal funding for such investigations becomes a limiting factor. We implore this Committee to uphold the United States Government's responsibilities in this decisive environmental quality area by recommending the reauthorization of a strong, well funded and equitable Superfund law, one which provides for broad Tribal Government participation, and innovations such as Brownsfield initiatives.

PETER J. DEFOE, PRESIDENT
MARGE ANDERSON, VICE PRESIDENT

GARY S. FRAZER, EXECUTIVE DIRECTOR

ELI O. HUNT, SECRETARY
DAVID C. MORRISON, SR., TREASURER



The Minnesota Chippewa Tribe

P.O. BOX 217 — CASS LAKE, MINNESOTA 56633-0217

Home Loan
218-335-8582
Fax
218-335-6925

May 16, 2001

The Honorable George W. Bush, President
United States of America
1600 Pennsylvania Avenue NW
Washington D.C. 20500

Dear President Bush:

I am writing to you at this time to ask your assistance with an information issue which is critical to the health and welfare of the Minnesota Chippewa Tribe. The issue of concern is the release of final Federal guidance regarding a group of environmental contaminants commonly identified as dioxins. The potential impact of these contaminants on the 40,000 members of the Minnesota Chippewa Tribe (MCT) is critical to our risk communication efforts.

As you know, dioxins are not intentionally produced as a commodity. Rather, dioxins are by-products of chemical production and combustion processes; most dioxins produced today come from the incineration of municipal and medical wastes, particularly plastics. These dioxins from combustion sources fall out of the atmosphere onto our lands and waters, making their way into the respective food chains, ending up in fish, meats, dairy products and other food sources.

A Federal Environmental Protection Agency study to assess the potential human health impacts of dioxins was initiated during your father's Presidential Administration. After five years of assessment that study was judged to need a scientific reassessment. I am informed this Federal reassessment continues today.

In 1998 the World Health Organization (WHO) reviewed the existing science regarding dioxin and recommended that the daily human intake of dioxins not exceed 1.0 picogram per gram Toxicity Equivalency (TEQ) per kilogram of body weight. My technical staff inform me that this recommended daily intake may be easily exceeded by consuming some common foods, such as hamburger and cheese, in relatively small portions. Some of these foods are provided monthly to the six MCT Reservation Commodity Centers by the Federal Government.

MEMBER RESERVATIONS • BOIS FORTE • FOND DU LAC • GRAND PORTAGE • LEECH LAKE • MILLE LACS • WHITE EARTH

NI-MAH-MAH-WI-NO-MIN
"We all come together"

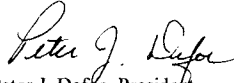
President Bush
Page 2

The first step to resolving this international contaminant issue is the effective communication of the potential risks posed by dioxins. The dioxin levels in our food supplies were recently found to be the same as eight years ago. This is unacceptable and, I am confident that you must believe this also. I ask you to make the final Federal guidance on dioxins a high priority for your government and make that information available as soon as possible.

I am obliged to provide any assistance as you may desire regarding this matter. Please contact me or my Executive Director, Mr. Gary Frazer, at our Tribal Government Offices; phone 218-335-8581.

Sincerely,

THE MINNESOTA CHIPPEWA TRIBE



Peter J. DeFoe, President

- c. Tribal Executive Committee
Gary Frazer
USEPA Administrator Christine Todd Whitman
Senator Ben Nighthorse Campbell
Representative Dale Kildee

5. POTENTIAL FOR HUMAN EXPOSURE

Table 5-6. Dioxins, Dibenzofurans, and Dioxin Toxicity Equivalencies (TEQs) in U.S. Foods (ppt, wet weight)

| Food type | CDD | CDF | Total TEQs for CDDs/CDFs |
|------------------------|------|------|--------------------------|
| Fish | | | |
| Haddock | 0.75 | 0.14 | 0.03 |
| Haddock fillet | 0.35 | 0.07 | 0.02 |
| Crunchy haddock | 2.91 | 0.51 | 0.13 |
| Perch | 1.55 | 1.14 | 0.02 |
| Cod | 0.82 | 0.09 | 0.02 |
| Meats | | | |
| Ground beef | 4.1 | 7.0 | 1.5 |
| Beef rib sirloin tip | 0.6 | 0.2 | 0.04 |
| Beef rib steak | 30.7 | 4.6 | 0.3 |
| Pork chop | 59.3 | 2.5 | 0.3 |
| Cook ham | 59.3 | 2.5 | 0.3 |
| Lamb sirloin | 8.95 | 0.85 | 0.4 |
| Bologna | 3.7 | 0.4 | 0.12 |
| Chicken drumstick | 0.95 | 0.14 | 0.03 |
| Dairy | | | |
| Cottage cheese | 0.6 | 0.3 | 0.04 |
| Soft blue cheese | 14.0 | 5.0 | 0.7 |
| Heavy cream | 5.0 | 2.0 | 0.4 |
| Soft cream cheese | 4.0 | 2.0 | 0.3 |
| American cheese slices | 4.0 | 2.0 | 0.3 |

Source: Schecter et al. 1994d

CDDs = chlorinated dibenzo-*p*-dioxins; CDFs = chlorinated dibenzofurans; TEQ = toxicity equivalency**WHAT THIS MEANS TO CONSUMERS**

- 1. A 200 POUND HUMAN WHO EATS ONE QUARTER POUND CHEESEBURGER HAS REACHED THE DAILY MAXIMUM FOR DIOXIN TEQ FOR THE DAY (carcinogenic effects only).**
- 2. A 100 POUND HUMAN WHO EATS HALF OF A QUARTER POUND CHEESEBURGER HAS REACHED THE MAXIMUM FOR DIOXIN TEQ FOR THE DAY (carcinogenic effects only).**



MIDWEST ALLIANCE OF SOVEREIGN TRIBES

(Minnesota, Wisconsin, Michigan, Iowa, Indiana)

PO Box 217, Cass Lake, Minnesota 56633
Ph: (218) 335-8581 Ext. 121 - Fax: (218) 335-8496
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MAST RESOLUTION NO: 03 - 01

Title: Recommendation to President Bush Regarding Federal Action on Dioxins in the Environment

- WHEREAS: the Midwest Alliance of Sovereign Tribes (MAST) is an intertribal organization representing the thirty five (35) federally recognized tribes in the States of Minnesota, Wisconsin, Michigan, Iowa and Indiana;
- WHEREAS: it is the mission of MAST "to advance, protect, preserve and enhance the mutual interest, treaty rights, sovereignty and cultural way of life of the Sovereign Nations of the Midwest throughout the 21st Century", and
- WHEREAS: dioxins are a group of contaminants which are readily found in our fish and other food supplies including Federally provided commodities, and
- WHEREAS: dioxins are one of the most carcinogenic substances known, a contaminant which is also linked to diabetes and other non-cancer human health effects, and
- WHEREAS: the Minnesota Chippewa Tribe (MCT) President Defoe has sent a letter to US President Bush requesting that the Federal Government finalize the well documented science on dioxin contamination and move forward with guidance for risk communication;

NOW THEREFORE BE IT RESOLVED, that the Board of Directors of MAST does hereby support and endorse the May 16, 2001 communication from MCT President Defoe to US President Bush regarding dioxin contamination in our food supplies, and

BE IT FURTHER RESOLVED, that the Board of Directors of MAST does implore President Bush to act aggressively, in a domestic and international context, to remove the sources of dioxins which are contaminating the environment.

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Resolution # 03 - 01

May 21, 2001

CERTIFICATION

We certify that this Resolution was duly presented, read, and officially acted upon at the Regular Quarterly meeting of the Midwest Alliance of Sovereign Tribes on May 21, 20001, Washington, D.C., a quorum present.

FOR: 7 AGAINST: 0 SILENT: 0 Resolution passed.

For the Midwest Alliance of Sovereign Tribes:

Bobby Whitefeather
BOBBY WHITEFEATHER, PRESIDENT

5/22/01
DATE

Robert Chicks
ROBERT CHICKS, SECRETARY

5-22-01
DATE

THE WHITE HOUSE
WASHINGTON

June 14, 2001

Dear Mr. Defoe:

On behalf of the President, I would like to thank you for your May 16th correspondence regarding dioxins. I hope you will understand the tremendous volume of mail has prevented me from responding more expeditiously.

Your views on these matters will be shared with the appropriate Administration officials for their benefit and consideration. Your input is highly valued and we appreciate your taking the time to write.

Sincerely,

A handwritten signature in black ink, appearing to read "Ruben Barrales", with a stylized, cursive script.

Ruben Barrales
Deputy Assistant to the President and Director of Intergovernmental Affairs

Mr. Peter J. Defoe
President of the Minnesota Chippewa Tribe
Post Office Box 217
Case Lake, MN 56633-0217

**TESTIMONY OF THE HONORABLE BOBBY WHITEFEATHER, CHAIRMAN
RED LAKE BAND OF CHIPPEWA INDIANS TRIBAL COUNCIL**

Before the Senate Committee on Indian Affairs

Hearing on the Midwest Alliance of Sovereign Tribes Concerns for the 107th Congress

June 19, 2001

Mr. Chairman, I thank you and the other distinguished members of the Committee for this opportunity to provide testimony on behalf of the Red Lake Band of Chippewa Indians and the Midwest Alliance of Sovereign Tribes (MAST) on our priorities for the 107th Congress. In addition to representing the people of Red Lake as their elected Chairman, I am also the President of MAST. The focus of my testimony will be on resource conservation.

Red Lake People and Resources

Red Lake is a relatively large Tribe with 9,300 members. Our 841,000 acre Reservation, located in northwestern Minnesota, is held in trust for the Tribe by the United States. While it has been diminished in overall size, our Reservation has never been broken apart or allotted to individuals. Nor has our Reservation ever been subjected to the criminal or civil jurisdiction of the State of Minnesota. Consequently, we have a relatively large land and water area over which the Tribe exercises exclusive governmental authority and control in conjunction with the United States.

Red Lake Band members' lives center around a seasonal cycle of reliance on natural resources. Fishing, hunting, and gathering activities are as vital to our survival today as they were 200 years ago. Time has certainly changed some aspects of this cycle. The desires of Band members to purchase modern-day products and goods has led to a resource-based cash economy of fishing and logging that began early in the 20th century and continues today. However, concerns about resource depletion in recent years have led us to seek out economic diversification.

Due in part to our Reservation's location far from centers of population and commerce, we have few jobs available in the private sector economy. While unemployment rates throughout America have dropped to historically low levels, our unemployment rate remains at an outrageously high level of 60%. The lack of good roads, communications, and other necessary infrastructure continues to hold back economic development and job opportunities. We have had limited success with gaming, but our remote location prevents the type of often-cited, large-scale gaming operations run by a small handful of tribes throughout America. The limited gaming revenues we do receive are devoted to human-services programs like meals for the elderly, our nursing home, and community-based activities devoted to meeting the pressing needs of people who

live on the edge of survival on our impoverished Reservation.

Testimony of the Hon. Bobby Whitefeather, Chairman, Red Lake Band of Chippewa Indians
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Relatively speaking, our resources are vast and important to many people who are our neighbors beyond our Reservation borders. The resources for which the Red Lake Band, not the State of Minnesota, is responsible, include 350,000 acres of forests, 471,000 acres of wetlands (including forested wetlands), 237,000 acres of lakes, and 55 miles of rivers and streams. Title to all of these resources is held in trust status for the benefit of the Red Lake Band by the United States.

Many of our resources are truly unique. Our Reservation includes much of northern Minnesota's patterned peatlands, which have received worldwide scientific recognition because ours is the largest peatland resource outside of Alaska and because many rare and endangered species reside in these areas.

Our Tribe's natural namesake, the Red Lake, is the sixth largest natural, freshwater lake in the United States. While it has never been included as a sixth Great Lake, Red Lake is "greater" in size than Lake Champlain which, with some controversy, was temporarily bestowed that status several funding cycles ago.

Until just recently, Red Lake was home to the largest and longest continuously operated freshwater commercial fishery in America and provided important employment for some 500 reservation families. Unfortunately, similar to the fate of commercial fisheries the world over, stocks of walleye, which were the principal commercial Red Lake species, collapsed in the mid-1990s forcing the Tribe to close our fishery for the first time since the beginning of World War I. The Tribe has since implemented an aggressive recovery plan in conjunction with the federal government and the State of Minnesota. Ours is the largest freshwater fish species recovery program in America today.

I have provided the above information to help you understand that we have been blessed with abundant natural resources, and the conservation and perpetuation of these resources is extremely important to my people and their direct survival needs.

Resource Management Funding Inequities

Our tribal resources are managed by a small but dedicated group of biologists, technicians, and wardens. Our relatively meager natural resources funding comes primarily from Bureau of Indian Affairs (BIA) programs. Unfortunately, recent federal budget cuts in BIA natural resource funding have diminished our resource management capacity by 20% in just the last five years. We have attempted to make up the difference by seeking outside grant funds, but the opportunities are very limited,

especially for fish and wildlife conservation. Still, we do the best we can with the limited funds we have.

For the most part, tribes have been left out of authorizing language for federal conservation programs, even though these programs were enacted to conserve all of America's resources, and even though tribes are responsible for managing more than 2.25% of the land resource base within the United States. For example, tribes cannot access substantial funding sources like the

*Testimony of the Hon. Bobby Whitefeather, Chairman, Red Lake Band of Chippewa Indians
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Federal Aid in Fish and Wildlife Restoration Acts of 1950 and 1937. These acts levy excise taxes on hunting and fishing equipment, and allocate the proceeds (about \$450 million annually)

to the fifty states, territories, and the District of Columbia for fish and wildlife programs. Tribal

members who hunt and fish pay these excise taxes just like all Americans, but none of these revenues come back to tribes to fund programs which benefit fish and wildlife on that portion of America under tribal jurisdiction.

Conservation and Reinvestment Act (CARA)

Red Lake and, I believe it is safe to say, most of the 561 federally-recognized Indian tribes across the country, strongly support CARA and the lasting benefits it will provide for conservation and future generations of Americans. I thank the Congress for recent improvements made to CARA with respect to tribal government participation, most notably the 2.25 % proportional funding share provision included within Title III. I also thank the House Appropriations Committee for retaining \$5 million of President Bush's proposed \$10 million FY 2002 tribal allocation under the Land and Water Conservation Fund (LWCF) state grant program. These actions signal a recognition by the Administration and the Congress of the great need tribes have for conservation funding, and I am very pleased to see these improvements.

The enactment of CARA, and the direct participation by tribes in CARA-supported programs, is absolutely critical to Indian tribes. Like states, tribes have governmental responsibilities for the conservation of fish, wildlife, and other resources on their lands. Like states, tribes regulate hunting and fishing and gathering on their lands. Like states, tribes would receive critically needed conservation funding under CARA. But unfortunately, when CARA died late last year and CARA "Lite" was enacted, tribes were completely shut out from the CARA Lite conservation funding, unlike states and local governments.

CARA Lite, as you know, was enacted as a new Title VIII, Land Conservation,

Preservation and Infrastructure Improvement to the Fiscal Year 2001 Interior Appropriations Bill, H.R. 4578. To our dismay, virtually none of the tribal allocations from either the House or Senate versions of CARA last year were included in CARA Lite, leaving tribes with nothing for their conservation responsibilities. After an additional \$50 million was added for wildlife conservation to Sections 901 and 902 of Title IX, Wildlife, Ocean and Coastal Conservation in the Fiscal Year 2001 Commerce, Justice, State, and Judiciary Appropriations (CJS) bill, tribes were further shocked to discover that, at the last minute during the final House-Senate conference, the tribal allocation percentage was dropped, leaving tribes as technically eligible to receive funds but with no allocation. These actions represented significant blows to tribal conservation efforts after years of cooperative effort in support of the campaign for CARA.

Because tribes were left out of CARA Lite, our hope lies in the enactment of CARA this year. If tribes are to preserve our resources and our way of life, we need access to funds in a manner similar to other agencies charged with the protection of America's land and water. I sincerely

*Testimony of the Hon. Bobby Whitefeather, Chairman, Red Lake Band of Chippewa Indians
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hope that you, and this Committee's colleagues in the Congress, will take my words to heart, and do the right thing on behalf of America's Indian tribes.

Proposals for Tribal Conservation in President Bush's 2002 Budget

Flexible Land and Water Conservation Fund Grant Program:

The Land and Water Conservation Fund (LWCF) was established by Congress in 1965 to provide financial assistance to states for planning, acquisition, and development of recreational land and water areas, and to federal agencies for acquisition and development of certain lands and other areas. The territories and the District of Columbia were included in the authorizing language as eligible to receive funding under the LWCF, but not tribes.

President Bush proposed a Flexible LWCF Grant Program in his FY 2002 budget. This program would fully fund the LWCF for the first time at \$900 million (\$450 million for the federal government and \$450 million for the states). Under the LWCF, funds are typically used for recreational land planning, acquisition, and development projects. But under Bush's proposal the LWCF would be flexible, based on the needs of the recipient. Besides land acquisition and development, recipients would be able to incorporate the purposes of several other programs such as the Urban Park and Recovery Program, Wildlife Conservation and Restoration Program, Cooperative Endangered Species Conservation Program, and the North American Wetlands Conservation Program. This flexible approach no doubt has part of its genesis in CARA, which would fund a broad

array of conservation activities.

Out of the \$450 million for the states, the President proposed a set-aside of \$10 million for tribes, to be distributed under a competitive grant program. It is likely not a coincidence that this \$10 million happens to be about 2.25% of \$450 million. This 2.25% proportional share was what tribes fought hard to achieve last year under Title III of CARA.

Although the House Appropriations Committee did not adopt the President's proposal as described above, it did include a new \$5 million tribal wildlife grants program, likely a carryover of the President's \$10 million tribal program. This \$5 million program is extremely important as it provides conservation funding tribes need and recognizes tribes as legitimate conservation managers along with the states and territories. Although tribes truly need the \$10 million proposed by President Bush, this \$5 million is a good start. As this is a competitive grant program administered by the Fish and Wildlife Service, it is very important that Congress include language requiring tribal consultation and the inclusion of the BIA division of Fish and Wildlife in the development of this competitive grant program, to reflect the government-to-government relationship.

Landowner Incentive Program:

President Bush's FY 2002 budget also includes \$50 million for the Fish and Wildlife Service to develop a competitively awarded, cost-shared Landowner Incentive program for grants to states, the District of Columbia, territories, and tribes to establish or supplement landowner incentive

Testimony of the Hon. Bobby Whitefeather, Chairman, Red Lake Band of Chippewa Indians

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programs. This program would provide financial and technical assistance to private landowners to help protect and manage habitat, while continuing to engage in traditional land use practices. The House Appropriations Committee did retain this new program.

As currently proposed, allocation criteria for this grant program would be developed by the Fish and Wildlife Service and the states. It is very important that Congress add language as part of the final budget package that directs the Fish and Wildlife Service to include tribes and the BIA division of Fish and Wildlife in the development of allocation criteria for this program, again, to reflect the government-to-government relationship.

Stand Alone Legislation for Wildlife and Endangered Species Conservation

On June 6, 2001, Senator Smith of New Hampshire introduced S. 990, the American Wildlife Enhancement Act of 2001. This legislation includes several titles similar to

CARA, notably Title I, Pittman-Robertson Wildlife Conservation and Restoration Programs Improvement and Title II, Endangered and Threatened Species Recovery (similar to CARA titles III and VII respectively).

Unlike the House and Senate versions of CARA, and despite input provided by tribes, this bill does not include tribes as eligible entities to directly receive funds for conservation. This is a disappointing step backward. As I mentioned previously in my testimony, tribal members have paid federal excise taxes for decades under the Federal Aid Acts to fund the Pittman-Robertson Wildlife Conservation program, yet tribes and tribal members have received nothing in return. Under S. 990, tribes would receive no direct allocation like the states and territories, but may receive a grant or contract by a state to use a portion of that state's allocation. I can assure you that virtually without exception, no state will ever share any of its wildlife funds with tribes, rendering the current language in this bill meaningless. Title I of S. 990 needs to be changed to provide the 2.25% proportional share to tribes as both the House and Senate have recommended under the corresponding Title III in CARA. I ask for your assistance in this regard..

Conclusion

In the past, tribes have often been overlooked by the Congress when promulgating new legislation for conservation programs. There are several conservation initiatives, including those I have discussed above, currently being considered by the Congress and the President that affect tribes. Like states and territories, tribes have a great need for conservation funding to protect that portion of America's resources under tribal jurisdiction.

I would be pleased to provide any additional information you need. I thank you for the opportunity to present testimony today on behalf of the Red Lake Band of Chippewa Indians and the Midwest Alliance of Sovereign Tribes.



MIDWEST ALLIANCE OF SOVEREIGN TRIBES

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July 16, 2001

The Honorable Daniel K. Inouye
 United States Senate
 C/o Senate Indian Affairs Committee
 SH - Rm. 838
 Washington, D.C. 20510


Dear Senator Inouye:

Attached please find the information you requested of certain tribal witnesses who testified before the Senate Indian Affairs Committee on June 19, 2001, Washington, D.C. The attached information is provided by Tribal Witness Ms. Ardith (Dodie) Chambers, Treasurer, Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan.

On behalf of the Midwest Alliance of Sovereign tribes (MAST) I wish to express my appreciation to you and the Senate Indian Affairs Committee for the opportunity for the MAST tribes to provide our Tribal issues and concerns for the 107th Congress.

If we may be of assistance to you in the future on any of the issues we presented or items not covered at the hearing please contact Mr. Roger T. Aitken, MAST Executive Director at 218.335.8393.

Sincerely,


 Bobby Whitefeather, President
 M.A.S.T.

Attachment

CC: Ms. Patricia Zell, Staff Director
 Ms. Marilyn Bruce, Committee-Chief Clerk



The Grand Traverse Band of Ottawa and Chippewa Indians

2605 N. West Bayshore Drive • Suttons Bay, MI 49682 • (231) 271-3538

July 3rd, 2001

Honorable Senator Daniel K. Inouye
Senate Indian Affairs Committee
Hart Building, Room 538
Washington, D.C. 20510

RE: Background Information for Testimony Made by Ardith (Dodie) Chambers
Treasurer of the Grand Traverse Band of Ottawa and Chippewa Indians
June 19, 2001

Dear Senator Inouye:

On behalf of the members and Board of Directors of the National Congress of American Indians and Midwest Alliance of Sovereign Tribes, I would like to thank Chairman Inouye, Ranking Member Campbell, and other distinguished members of the Senate Committee on Indian Affairs for the opportunity to submit written testimony in support of my oral presentation to the Committee on June 15, 2001. I feel a great sense of responsibility in preparing this statement because I speak to you as a tribal leader and as a representative of Indian people throughout this nation.

Before I address the six issues highlighted in my testimony I ask that you take time to reflect on some fundamental principles necessary for our efforts to achieve success. Most successful models being used to improve economic conditions in third world countries employ anthropologist, sociologist, and economist. This practice involves observation, interaction, and definition, prior to offering solutions. The failure of many Native American programs to achieve their desired objectives can be traced to a lack of understanding for Native traditions and cultures. I am encouraged by our discussions. The government to government relationship we share is extremely important. If we continue to seek the counsel of one another, we can solve problems through synergistic approaches. My tribe is ever mindful of the seventh generation. We can work together and identify solutions that will offer sustainable benefits. What is good for Indian Country is beneficial to all Americans.

1) The creation of a federal task force to work on infrastructure needs for Indian Country

The Grand Traverse Band is active in the both NCAI and NAIHC. The NAIHC Chairman Caester Carl places the current Indian Health Services budgetary needs in the \$4.5 billion range. He has asked Congress for a \$180 million increase in the current appropriation for water and sewer systems within the Sanitation Facilities Construction component of the Indian Health Services and Facilities budget. If granted, this request would facilitate some of the pent-up need created by increased building activity in Indian Country.

Furthermore, during the summer of 2000 President Clinton introduced an initiative that improved access to communication and power transmission lines on Reservations. This effort only begins to bridge the communications gap that divides our poorest reservations from urban centers. The BIA Roads funding allocation system provides 80 percent of its dollars to existing BIA owned roads. The balance (20 percent) of the BIA appropriation is distributed by population. This format reduces the odds of receiving funding for small and medium size tribes that do not have existing BIA roads. Please consider the obstacles created by inadequate infrastructure. When safe water and sewage disposal systems are not available our housing

GRAND TRAVERSE CHARLEVOIX LEEUANAU BENZIE MANISTEE ANTRIM

needs go unmet. Without roads we cannot attract commerce. The power and communication lines are the vehicles to carry knowledge and information to our people and beyond.

By forming an Infrastructure Needs Assessing Task Force, Congress can identify the underlying problems that inhibit tribal communities from realizing self-sufficiency. The findings of this panel will be surprising to many people. The scope of the need will exceed even the worst estimates from the GAO. The BIA, IHS, EPA, HUD ONAP, and USDA Rural Development have begun an interagency working group to resolve some of the issues that have created barriers for cooperative efforts. The group is working to simplify the environment review process and other sensitive issues.

To solve the problem, it will take a combination of tax incentives, cooperation and coordination of grants between government agencies, greater access to charitable foundations, and the creation of a utility investment instrument/conduit that funds new services in Indian Country. The tax benefits will help stimulate infusion of corporate investment equity. By using grants and technical assistance from Indian Health Services and Rural Utility Services tribes can reduce the overall costs of generating services. Philanthropy is an often overlooked, but an invaluable resource. And finally, the investment instrument/conduit would provide a present value market-based solution that would allow construction to begin today with debt service retirement occurring annually from federal appropriations, tribal contributions, and user fees.

2) **A restructuring of the HUD 184 Program to make it more user-friendly**

The HUD Section 184 Mortgage Program is basically a good product. It offers many of the variables necessary to attract lenders to trust land. Unfortunately, the program has been given a bad name by lenders and tribes because of the red tape associated with a government program. Tribal communities are not found in urban centers. The rural community banks that are located near reservations are primarily conventional or portfolio lenders. These banks are still learning how to use the secondary market and find it cumbersome to deal with HUD ONAP.

In addition, the images presented when the 184 program was introduced created the impression that this product was going to take greater risk with Native borrowers. When HUD describes the successful payment history of 184 borrowers, many tribal leaders question whether the program is fulfilling the original obligation to Indian people. The 184 suffers from a poor public image.

The program allows tribes and TDHE's to be borrowers, why not offer a pool insurance concept that provides an overall guarantee to a broader cross section of mortgages from one entity. By authorizing a guarantee to a pool of loans, HUD would be spreading the risk over a number of loans. This concept would allow HUD to accept a wider range of credit without taking unnecessary risk. A tribe seeking this type of privilege could be required to take a risk share position based on a benchmarked threshold of loss for the entire pool. HUD could take the first loss position based on the entire pool and the tribe and/or lender would accept the balance of risk. This type of recourse would provide an additional avenue for tribes and lenders. Home ownership and credit counseling (financial literacy classes) could be a prerequisite for borrowers with low credit scores. The idea is to reward tribal members that make a concerted effort to conform to traditional credit standards.

3) **A set-aside for Mortgage Revenue Bond Programs**

Tribes are requesting this form of allocation to prevent political agendas from becoming part of the funding process. Tribal housing needs should never be placed in a position that could be compromised by ongoing negotiations between tribes and the state. There is an acute shortage of affordable housing in Indian Country. The NCAI and NAIHC have projected the housing shortfall at 225,000 dwellings. This figure represents a capital investment in the \$16-20 billion range. At the present time state mortgage revenue bond allocations are not adequately funded to fully support the housing interest of Native people.

Tribes have access to tax-exempt financing for essential purposes of government. Mortgage revenue bonds have been an effective tool for state housing finance agencies. Tribal communities could benefit from this valuable resource.

- 4) **Federal funds going to Rural Community Assistance Program to create a 7th program specifically to assist tribes with water and sewer programs**

RCAP has made excellent contributions in communities where they have a presence. There are several examples of work RCAP has done in Indian Country. The Acoma tribe of New Mexico is one such example. The level of expertise available through RCAP is comprehensive in nature. They can provide technical assistance and act as an advisor in conjunction with other federal programs. Ideally, a 7th RCAP regional office with a primary focus on Indian issues could work more extensively with tribes and establish a training program to increase the competence level of tribal rural utilities. Through exposure to the practical applications of environment science/engineering, we may encourage our youth to choose this important discipline for a career path. RCAP could enhance the level of cooperation with Interagency working groups. This could be one of the keys to assessing the infrastructure problems and the development of a viable action plan that addresses the specific needs within fiscal restraints.

- 5) **The continuation of the Rural Housing and Economic Development Program eliminated from FY 2002 HUD Budget**

To fund housing and economic development initiatives tribes have used this important grant program. The Rural Housing and Economic Development Program is an important tool in the self-determination equation. These dollars have more liberal uses, which has made it possible to create down payment assistance programs, subsidize home ownership initiatives, start mortgage lending programs, form CDC's, finance new business ventures, and financially support credit counseling programs. It is difficult to understand how the benefits of a program like this can be overlooked. If meeting the housing needs of all Native people were a national priority, we would create the largest employer, and highest grossing industry in Indian Country. Remember, the total housing market including infrastructure needs is approaching \$25 billion.

- 6) **The creation of an Indian Housing representative position at each of the Federal Agencies that are involved with Banking: FDIC, Federal Reserve Bank, Federal Housing Finance Board, OCC, and Treasury.**

The merger mania that has hit the Banking industry is creating an unstable banking environment for tribes and their members. Each time a bank is consumed by a larger entity the tribe must renegotiate relationships and re-educate the bank staff. Tribal members often experience far more inconvenience because the larger banks tend to use risk models rather than common sense guidelines, thus making loans more difficult to obtain. The fees for banking services typically increase, which further depletes the resources of undercapitalized families.

The composition of regulatory agencies should reflect that of the population at large. Native people are progressing through the ranks of mainstream corporate America. It is time that the Banking Industry recognizes some of our talented members for the contributions they are making. Native people need a stronger presence and a louder voice in the financial world.

Very truly yours,

Dodie Chambers

Ardith "Dodie" Chambers
Tribal Council Treasurer

Cc: Tribal Council
MAST

